



FEDERAL REGISTER

Vol. 89

Monday,

No. 189

September 30, 2024

Pages 79369–79730

OFFICE OF THE FEDERAL REGISTER



The **FEDERAL REGISTER** (ISSN 0097-6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see www.federalregister.gov.

The seal of the National Archives and Records Administration authenticates the **Federal Register** as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at www.govinfo.gov, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 1, 1 (March 14, 1936) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, gpocusthelp.com.

The annual subscription price for the **Federal Register** paper edition is \$860 plus postage, or \$929, for a combined **Federal Register**, **Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is \$330, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register**, including postage, is based on the number of pages: \$11 for an issue containing less than 200 pages; \$22 for an issue containing 200 to 400 pages; and \$33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for \$3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see bookstore.gpo.gov.

There are no restrictions on the republication of material appearing in the **Federal Register**.

How To Cite This Publication: Use the volume number and the page number. Example: 89 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202-512-1800
Assistance with public subscriptions	202-512-1806

General online information 202-512-1530; 1-888-293-6498

Single copies/back copies:

Paper or fiche	202-512-1800
Assistance with public single copies	1-866-512-1800 (Toll-Free)

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	FRSubscriptions@nara.gov
Phone	202-741-6000

The Federal Register Printing Savings Act of 2017 (Pub. L. 115-120) placed restrictions on distribution of official printed copies of the daily **Federal Register** to members of Congress and Federal offices. Under this Act, the Director of the Government Publishing Office may not provide printed copies of the daily **Federal Register** unless a Member or other Federal office requests a specific issue or a subscription to the print edition. For more information on how to subscribe use the following website link: <https://www.gpo.gov/frsubs>.



Contents

Federal Register

Vol. 89, No. 189

Monday, September 30, 2024

Administrative Conference of the United States

NOTICES

Model Rules of Representative Conduct, 79501

Agriculture Department

See Commodity Credit Corporation

See Farm Service Agency

See Forest Service

See Rural Utilities Service

Bureau of Consumer Financial Protection

PROPOSED RULES

Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E), 79456–79474

Census Bureau

NOTICES

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

Business Enterprise Research and Development Survey, 79511–79512

Current Population Survey 2025 Field Test, 79512–79513

Quarterly Survey of Public Pensions, 79513–79514

Centers for Disease Control and Prevention

NOTICES

Charter Amendments, Establishments, Renewals and Terminations:

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 79612

Hearings, Meetings, Proceedings, etc.:

Advisory Committee on Immunization Practices, 79610–79611

Centers for Medicare & Medicaid Services

RULES

Medicare Program:

Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024—Remaining Provisions and Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, etc.; Correction, 79450–79452

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 79612–79614

Commerce Department

See Census Bureau

See Industry and Security Bureau

See International Trade Administration

See National Institute of Standards and Technology

See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements

NOTICES

Limitations of Duty- and Quota-Free Imports:

Apparel Articles Assembled in Beneficiary Sub-Saharan African Countries from Regional and Third-Country Fabric, 79568

Commodity Credit Corporation

NOTICES

Domestic Sugar Program:

Fiscal Year 2024 Reassignment and FY25 Overall Sugar Marketing Allotment, Cane Sugar and Beet Sugar Marketing Allotments and Company Allocations, 79501–79504

Funds Availability:

Organic Dairy Marketing Assistance Program 2024, 79505–79509

Consumer Product Safety Commission

PROPOSED RULES

Safety Standard:

Requirements for Toys Containing Button Cell or Coin Cell Batteries, 79488–79489

NOTICES

Meetings; Sunshine Act, 79569

Defense Acquisition Regulations System

NOTICES

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

Defense Federal Acquisition Regulation Supplement; Defense Contracting Programs; Pilot Program to Incentivize Contracting with Employee-Owned Businesses, 79569–79570

Defense Federal Acquisition Regulation Supplement; Patents, Data, and Copyrights; Small Business Technology Transfer Program, 79569

Defense Department

See Defense Acquisition Regulations System

NOTICES

Agency Information Collection Activities; Proposals, Submissions, and Approvals, 79570–79572, 79575–79577

Agency Information Collection Activities; Proposals, Submissions, and Approvals; Correction, 79575

Hearings, Meetings, Proceedings, etc.:

Defense Science Board, 79574–79575

Department of Defense Wage Committee, 79572–79574

Education Department

NOTICES

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

District Survey on Use of Funds under Title II, Part A, 79577–79578

Education Stabilization Fund—Emergency Assistance for Non-Public Schools Program Recipient Annual Reporting Data Collection Form, 79578

Education Stabilization Fund—Governor's Emergency Education Relief Fund Recipient Data Collection Form, 79579–79580

Federal Student Loan Program Deferment Request Forms; Correction, 79577

Federal Student Loan Program: Internship/Residency and Loan Debt Burden Forbearance Forms, 79580

Servicemembers Civil Relief Act: Interest Rate Limitation Request, 79578–79579

Employment and Training Administration**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Workforce Innovation and Opportunity Act Native
American Employment and Training Council, 79641

Energy Department**RULES**

Energy Conservation Program:

Standards for Air-Cooled Commercial Package Air
Conditioners and Heat Pumps, 79374–79380
Standards for Miscellaneous Refrigeration Products,
79370–79374

NOTICES

Privacy Act; Systems of Records, 79580

Environmental Protection Agency**RULES**

Air Quality State Implementation Plans; Approvals and
Promulgations:

North Carolina; Mecklenburg Emission Control
Standards, 79443–79446

State Hazardous Waste Management Program:

West Virginia, 79446–79450

PROPOSED RULES

State Hazardous Waste Management Program:

West Virginia, 79491–79492

NOTICES

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

Application for Reference and Equivalent Method
Determination, 79580–79581

Chemical-Specific Rules under the Toxic Substances
Control Act; Certain Nanoscale Materials, 79583

Cross-Media Electronic Reporting Rule, 79583–79584

Data Reporting Requirements for State and Local Vehicle
Emission Inspection and Maintenance Programs,
79586–79587

Methane Challenge and Natural Gas STAR Programs,
79584–79585

Textile Mills Industry Data Collection, 79585–79586

Risk Management Under the Toxic Substances Control Act:

Certain Per- and Polyfluoroalkyl Substances, 79581–
79583

Farm Credit System Insurance Corporation**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Board of Directors, 79587

Farm Service Agency**NOTICES**

Application Fast Track Pilot Program, 79504–79505

Funds Availability:

Organic Dairy Marketing Assistance Program 2024,
79505–79509

Federal Aviation Administration**RULES**

Airspace Designations and Reporting Points

Incorporation by Reference Amendments, 79429–79434

Airworthiness Directives:

Airbus Helicopters Deutschland GmbH (AHD)
Helicopters, 79420–79423

Airbus SAS Airplanes, 79418–79420

BAE Systems (Operations) Limited Airplanes, 79423–
79425

DG Aviation GmbH (Type Certificate Previously Held by
DG Flugzeugbau GmbH) Gliders, 79425–79428

Embraer S.A. (Type Certificate Previously Held by Yabora
Industria Aeronautica S.A.; Embraer S.A.) Airplanes,
79416–79418

PROPOSED RULES

Airworthiness Directives:

Airbus Helicopters, 79483–79485

Airbus SAS Airplanes, 79477–79480

Austro Engine GmbH Engines, 79474–79477

DAHER AEROSPACE (Type Certificate Previously Held
by SOCATA) Airplanes, 79485–79488

Thommen Aircraft Equipment AG Digital Air Data
Computers, 79480–79483

NOTICES

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

Service Difficulty Report, 79685

Federal Communications Commission**PROPOSED RULES**

Petitions for Reconsideration of Action in Proceeding,
79492

NOTICES

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 79588

Federal Highway Administration**NOTICES**

Buy America Waiver, 79685–79687

Federal Reserve System**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 79588–79594

Change in Bank Control:

Acquisitions of Shares of a Bank or Bank Holding
Company, 79591–79592

Federal Trade Commission**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 79596–79598

Analysis of Proposed Consent Order to Aid Public
Comment:

DoNotPay, Inc., 79594–79596

Privacy Act; Systems of Records, 79598–79610

Fish and Wildlife Service**NOTICES**

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

Improving Our Understanding of How Trout Anglers
Differ in Their Valuations Between Wild and
Hatchery Trout, 79634–79636

Food and Drug Administration**NOTICES**

Agency Information Collection Activities; Proposals,
Submissions, and Approvals, 79626–79627

Environmental Assessments; Availability, etc.:

Production of AquAdvantage Salmon at the Bay Fortune
and Rollo Bay Facilities on Prince Edward Island,
Canada, 79623–79624

Guidance:

International Cooperation on Harmonisation of Technical
Requirements for Registration of Veterinary
Medicinal Products; Studies to Evaluate the Safety of
Residues of Veterinary Drugs in Human Food:
Genotoxicity Testing, 79614–79615

Radiation Control Regulations for Manufacturers of Diagnostic X-Ray Equipment, 79624–79626
Safety and Performance Based Pathway Device-Specific Guidances, 79615–79617

Requests for Nominations:

Individuals and Consumer Organizations for Advisory Committees, 79617–79622

Statement of Organization, Functions, and Delegations of Authority, 79622–79623

Forest Service

NOTICES

Environmental Impact Statements; Availability, etc.:

Gifford Pinchot National Forest; Washington; Spirit Lake Outflow Safety Improvement Project, 79509–79511

Health and Human Services Department

See Centers for Disease Control and Prevention

See Centers for Medicare & Medicaid Services

See Food and Drug Administration

See Health Resources and Services Administration

See National Institutes of Health

Health Resources and Services Administration

NOTICES

Charter Amendments, Establishments, Renewals and Terminations:

Council on Graduate Medical Education, 79627

Homeland Security Department

See U.S. Citizenship and Immigration Services

Industry and Security Bureau

NOTICES

Denial of Export Privileges:

Cerbando Acosta-Carbajal, 79523–79524

Dali Bagrou, 79522–79523

Mark Fitting, 79520–79521

Melony Erice, 79519

Nicholas Hovan, 79518–79519

Nicholas James Fuchs, 79520

Pierre Michel Alfred, 79514–79515

Rafael Alejandro Canez, 79515–79516

Robert Omar Alcantara, 79516–79517

Robert Thwaites, 79517–79518

Zhenyu Wang a/k/a Bill Wang, 79521–79522

Institute of Museum and Library Services

NOTICES

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

National Museum Survey, 79649–79650

Interior Department

See Fish and Wildlife Service

See National Park Service

See Surface Mining Reclamation and Enforcement Office

Internal Revenue Service

NOTICES

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

Qualified Severance of Trusts, 79692–79693

Reporting of Suspected Tax Law Violations, 79692

International Trade Administration

NOTICES

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:

Stilbenic Optical Brightening Agents from the People's Republic of China, 79524–79525

International Trade Commission

NOTICES

Antidumping or Countervailing Duty Investigations, Orders, or Reviews:

Melamine from Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago, 79637–79638

Justice Department

See Justice Programs Office

See National Institute of Justice

Justice Programs Office

NOTICES

Hearings, Meetings, Proceedings, etc.:

Public Safety Officer Medal of Valor Review Board, 79639

Labor Department

See Employment and Training Administration

See Wage and Hour Division

Legal Services Corporation

NOTICES

Meetings; Sunshine Act, 79645–79647

Management and Budget Office

NOTICES

Hearings, Meetings, Proceedings, etc.:

Effective Participation in Executive Order 12866 Meetings with the Office of Information and Regulatory Affairs; Training Session, 79647

Effective Public Participation in the Public Comment Process with the Office of Information and Regulatory Affairs; Training Session, 79648

Millennium Challenge Corporation

NOTICES

Charter Amendments, Establishments, Renewals and Terminations:

Economic Advisory Council; Requests for Nominations, 79648–79649

National Aeronautics and Space Administration

NOTICES

Hearings, Meetings, Proceedings, etc.:

Biological and Physical Sciences Advisory Committee, 79649

National Credit Union Administration

RULES

Fair Hiring in Banking, 79380–79397

Simplification of Share Insurance Rules, 79397–79416

National Foundation on the Arts and the Humanities

See Institute of Museum and Library Services

National Institute of Justice

NOTICES

Draft Public Access Plan, 79639–79641

National Institute of Standards and Technology**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Information Security and Privacy Advisory Board, 79525–79526

National Institutes of Health**NOTICES**

Agency Information Collection Activities; Proposals,

Submissions, and Approvals:

Adolescent Brain and Cognitive Development Study—Audience Feedback Teams, 79628–79629

Investigational Agent Accountability Record Forms and International Investigator Statement in the Conduct of Investigational Trials for the Treatment of Cancer, 79630–79631

Hearings, Meetings, Proceedings, etc.:

Center for Scientific Review, 79627–79628

Eunice Kennedy Shriver National Institute of Child Health and Human Development, 79631

National Institute of Allergy and Infectious Diseases, 79630

National Institute of Dental and Craniofacial Research, 79631

National Institute of Diabetes and Digestive and Kidney Diseases, 79632

National Institute on Aging, 79631–79632

Office of the Director, 79627

National Oceanic and Atmospheric Administration**RULES**

Fisheries of the Exclusive Economic Zone off Alaska:

Pollock Fishing by Vessels Using Trawl Gear in the Central Regulatory Area of the Gulf of Alaska, 79454
Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area, 79454–79455

Fisheries of the Northeastern United States:

Atlantic Spiny Dogfish Fishery; Extension of 2024 Specifications Emergency Measures, 79452–79454

PROPOSED RULES

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic:

Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Amendment 2, 79492–79500

NOTICES

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

Conflict of Interest Disclosure for Non-Federal Government Individuals Who are Candidates to Conduct Peer Reviews Required by the OMB Peer Review Bulletin, 79528

Submission of Conservation Efforts to Make Listings Unnecessary under the Endangered Species Act, 79528–79529

Permits; Applications, Issuances, etc.:

Fisheries of the Exclusive Economic Zone off Alaska, 79526–79528

Taking or Importing of Marine Mammals:

Army Corps of Engineers Baker Bay Pile Dike Repair Project, 79557–79568

Hilcorp Alaska, LLC Production Drilling Support in Cook Inlet, AK, 79529–79557

National Park Service**NOTICES**

Designation of Insignia for the National Park Service, Youth and Young Adult Programs, 79636

National Register of Historic Places:

Pending Nominations and Related Actions, 79636–79637

National Science Foundation**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Advisory Committee for Mathematical and Physical Sciences, 79651–79652

Meetings; Sunshine Act, 79651

Permits; Applications, Issuances, etc.:

Antarctic Conservation Act, 79650–79652

Nuclear Regulatory Commission**RULES**

Regulatory Guide:

Monitoring of Combustible Gases and Vapors in Plutonium Processing and Fuel Fabrication Plants, 79369–79370

Personnel Management Office**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Federal Prevailing Rate Advisory Committee, 79652–79653

Postal Regulatory Commission**PROPOSED RULES**

Market Dominant Postal Products, 79489–79491

NOTICES

New Postal Products, 79653–79655

Postal Service**RULES**

Address Correction Notices IMpb, 79441–79443

Rural Utilities Service**RULES**

OneRD Guarantee Loan, 79698–79729

Securities and Exchange Commission**NOTICES**

Self-Regulatory Organizations; Proposed Rule Changes:

Miami International Securities Exchange, LLC, 79666–79668

MIAX Emerald, LLC, 79678–79680

MIAX Exchange LLC, 79655–79658

MIAX PEARL LLC, 79660–79664

MIAX PEARL, LLC, 79658–79660

MIAX Sapphire, LLC, 79672–79678

Nasdaq ISE, LLC, 79664

New York Stock Exchange LLC, 79664–79666

NYSE American LLC, 79678

The Options Clearing Corp., 79668–79672

Small Business Administration**NOTICES**

Disaster Declaration:

Connecticut, 79682

Illinois, 79681

Louisiana, 79680–79683

Saint Regis Mohawk Tribe; Public Assistance Only, 79681–79682

Texas, 79682

State Department**RULES**

Access to Information; Privacy Act Provisions, 79434–79436

NOTICES

Culturally Significant Objects Imported for Exhibition:
Caspar David Friedrich: The Soul of Nature, 79683
Living with the Gods: Art, Beliefs and Peoples, 79683

Surface Mining Reclamation and Enforcement Office**RULES**

Ohio Abandoned Mine Land Reclamation Plan, 79436–
79441

Susquehanna River Basin Commission**NOTICES**

Hearings, Meetings, Proceedings, etc., 79683–79685

Transportation Department

See Federal Aviation Administration

See Federal Highway Administration

NOTICES

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

Title VI Program, 79687–79688

Privacy Act; Systems of Records, 79688–79692

Treasury Department

See Internal Revenue Service

See United States Mint

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

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

Application for Parole in Place for Certain Noncitizen
Spouses and Stepchildren of U.S. Citizens, 79633–
79634

Freedom of Information/Privacy Act Request, 79632–
79633

Unified Carrier Registration Plan**NOTICES**

Meetings; Sunshine Act, 79694–79695

United States Mint**NOTICES**

Hearings, Meetings, Proceedings, etc.:

Citizens Coinage Advisory Committee, 79693–79694

Wage and Hour Division**NOTICES**

Rate Change:

Minimum Wage for Federal Contracts, 79641–79645

Separate Parts In This Issue**Part II**

Agriculture Department, Rural Utilities Service, 79698–
79729

Reader Aids

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

To subscribe to the Federal Register Table of Contents electronic mailing list, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your e-mail address, then follow the instructions to join, leave, or manage your subscription.

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR

5001.....79698

10 CFR

70.....79369

430.....79370

431.....79374

12 CFR

701.....79380

741.....79380

745.....79397

746.....79380

748.....79380

752.....79380

Proposed Rules:

1005.....79456

14 CFR

39 (5 documents) 79416,

79418, 79420, 79424, 79425

71.....79429

Proposed Rules:

39 (5 documents) 79474,

79477, 79480, 79483, 79485

16 CFR**Proposed Rules:**

1250.....79488

22 CFR

171.....79434

30 CFR

935.....79436

39 CFR

111.....79441

Proposed Rules:

3030.....79489

40 CFR

52.....79443

271.....79446

Proposed Rules:

271.....79491

42 CFR

422.....79450

423.....79450

460.....79450

47 CFR**Proposed Rules:**

54.....79492

50 CFR

648.....79452

679 (2 documents) 79454

Proposed Rules:

600.....79492

622.....79492

Rules and Regulations

Federal Register

Vol. 89, No. 189

Monday, September 30, 2024

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

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

NUCLEAR REGULATORY COMMISSION

10 CFR Part 70

[NRC–2024–0159]

Regulatory Guide: Monitoring of Combustible Gases and Vapors in Plutonium Processing and Fuel Fabrication Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Final guide; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing Revision 1 to Regulatory Guide (RG) 3.7, “Monitoring of Combustible Gases and Vapors in Plutonium Processing and Fuel Fabrication Plants,” in which there are minor corrections with no substantive changes in the NRC staff’s regulatory positions. RG 3.7 provides guidance with regard to protecting against the possibility of the formation of flammable mixtures with combustible gases and vapors. This guidance is needed to protect against the possibility of the formation of flammable mixtures with these gases and vapors when combustible gases and solvents are used within the confinement barriers of a plutonium processing and fuel fabrication plant.

DATES: Revision 1 to RG 3.7 is available on September 30, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0159 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC–2024–0159. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed

in the “For Further Information Contact” section of this document.

- *NRC’s Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select “Begin Web-based ADAMS Search.” For problems with ADAMS, please contact the NRC’s Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document. Revision 1 to RG 3.7 may be found in ADAMS under Accession No. ML24162A095.

- *NRC’s PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

FOR FURTHER INFORMATION CONTACT:

Nicole Cortes, Office of Nuclear Reactor Regulation, telephone: 301–415–7331; email: Nicole.Cortes@nrc.gov; and Harriet Karagiannis, Office of Nuclear Regulatory Research, telephone: 301–415–3346, email: Harriet.Karagiannis@nrc.gov. Both are staff at the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Discussion

The NRC is issuing an administrative revision to an existing guide in the NRC’s “Regulatory Guide” series. Regulatory guides are developed to describe and make available to the public information and methods that are acceptable to the NRC staff for implementing specific parts of the agency’s regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The NRC typically seeks public comment on a draft version of an RG by

announcing its availability for comment in the **Federal Register**. However, as explained in NRC’s Management Directive (MD) 6.6 “Regulatory Guides,” (ADAMS Accession No. ML22010A233) the NRC may directly issue a final RG without a draft version or public comment period if the changes to the RG are non-substantive.

Thus, the NRC is issuing Revision 1 of RG 3.7 directly as a final RG because there are no changes in the staff positions between Revision 0 and Revision 1. Revision 1 of RG 3.7 incorporates minor corrections, and other editorial changes that are administrative in nature. The changes are intended to improve clarity and do not alter the NRC staff’s regulatory guidance for the “Monitoring of Combustible Gases and Vapors in Plutonium Processing and Fuel Fabrication Plants,” licensees.

II. Additional Information

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

III. Congressional Review Act

This RG is not a rule as defined in the Congressional Review Act (5 U.S.C. 801–808).

IV. Backfitting, Forward Fitting, and Issue Finality

The NRC staff may use this RG as a reference in its regulatory processes, such as licensing, inspection, or enforcement. However, the NRC staff does not intend to use the guidance in this RG to support NRC staff actions in a manner that would constitute backfitting as that term is defined in 10 CFR 50.109, “Backfitting,” and as described in NRC MD 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests” (ADAMS Accession No. ML18093B087), nor does the NRC staff intend to use the guidance to affect the issue finality of an approval under 10 CFR part 52. The staff also does not intend to use the guidance to support NRC staff actions in a manner that constitutes forward fitting as that term is defined and described in MD 8.4. If a licensee believes that the NRC is using this RG in a manner

inconsistent with the discussion in the Implementation section of RG 3.7, then the licensee may file a backfitting or forward fitting appeal with the NRC in accordance with the process in MD 8.4.

V. Submitting Suggestions for Improvement of Regulatory Guides

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

Dated: September 24, 2024.

For the Nuclear Regulatory Commission.

Meraj Rahimi,

Chief, Regulatory Guide and Programs Management Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2024–22246 Filed 9–27–24; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2020–BT–STD–0039]

RIN 1904–AF62

Energy Conservation Program: Energy Conservation Standards for Miscellaneous Refrigeration Products

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Direct final rule; confirmation of effective and compliance dates; technical correction.

SUMMARY: The U.S. Department of Energy ("DOE") published a direct final rule to establish new energy conservation standards for miscellaneous refrigeration products in the **Federal Register** on May 7, 2024. DOE has determined that the comments received in response to the direct final rule are not adverse and, thus, do not provide a reasonable basis for withdrawing the direct final rule. Therefore, DOE provides this document confirming the effective and compliance dates of those standards. This document also corrects an error in the amended regulatory text as it appeared in the direct final rule published on May 7, 2024.

DATES: The technical correction in this document is effective September 30, 2024.

The effective date of September 4, 2024, for the direct final rule published May 7, 2024 (89 FR 38762) is confirmed. Compliance with the standards established in the direct final rule will be required on January 31, 2029.

ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

The docket web page can be found at www.regulations.gov/docket/EERE-2020-BT-STD-0039. The docket web page contains instructions on how to access all documents, including public comments, in the docket.

For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email:

ApplianceStandardsQuestions@ee.doe.gov.

FOR FURTHER INFORMATION CONTACT:

Mr. Lucas Adin, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–5904. Email: ApplianceStandardsQuestions@ee.doe.gov.

Ms. Kristin Koernig, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–4789. Email: kristin.koernig@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Authority
- II. Miscellaneous Refrigeration Products Direct Final Rule
 - A. Background
- III. Comments on the Direct Final Rule
 - A. General Comments
 - B. Typographical Error Correction
- IV. Impact of Any Lessening of Competition
- V. Review Under the National Environmental Policy Act of 1969
- VI. Conclusion

I. Authority

The Energy Policy and Conservation Act, Public Law 94–163, as amended

("EPCA"),¹ authorizes DOE to issue a direct final rule establishing an energy conservation standard for a product on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered products, States, and efficiency advocates), as determined by the Secretary of Energy ("Secretary"), that contains recommendations with respect to an energy or water conservation standard that are in accordance with the provisions of 42 U.S.C. 6295(o) or 42 U.S.C. 6313(a)(6)(B), as applicable. (42 U.S.C. 6295(p)(4))

The direct final rule must be published simultaneously with a notice of proposed rulemaking ("NOPR") that proposes an energy or water conservation standard that is identical to the standard established in the direct final rule, and DOE must provide a public comment period of at least 110 days on this proposal. (42 U.S.C. 6295(p)(4)(A)–(B)) Not later than 120 days after issuance of the direct final rule, DOE shall withdraw the direct final rule if: (1) DOE receives one or more adverse public comments relating to the direct final rule or any alternative joint recommendation; and (2) based on the rulemaking record relating to the direct final rule, DOE determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule. (42 U.S.C. 6295(p)(4)(C)) If DOE makes such a determination, DOE must proceed with the NOPR published simultaneously with the direct final rule and publish in the **Federal Register** the reasons why the direct final rule was withdrawn. (*Id.*)

After review of the comments received in response to the direct final rule, DOE has determined that it did not receive any adverse comments providing a basis for withdrawal described above for the direct final rule that is the subject of this document. As such, DOE did not withdraw this direct final rule and allowed it to become effective. Although not required under EPCA, where DOE does not withdraw a direct final rule, DOE customarily publishes a summary of the comments received during the 110-day comment period and its responses to those comments. This document contains such a summary, as well as DOE's responses to the comments.

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact parts A and A–1 of EPCA.

II. Miscellaneous Refrigeration Products Direct Final Rule

A. Background

In a direct final rule published on October 28, 2016, DOE prescribed the current energy conservation standards for miscellaneous refrigeration products (“MREFs”) manufactured on and after October 28, 2019. 81 FR 75194. These standards are set forth in DOE’s regulations at 10 CFR 430.32(aa)(1) and (2). These standards are consistent with a negotiated term sheet submitted to

DOE by interested parties representing manufacturers, energy and environmental advocates, and consumer groups.²

On March 31, 2023, DOE published a NOPR proposing to establish amended standards for MREFs. 88 FR 19382.

On September 25, 2023, DOE received a joint statement (“Joint Agreement”) recommending standards for MREFs that was submitted jointly by groups representing manufacturers, energy and environmental advocates, consumer groups, and a utility.³ In addition to the

recommended standards for MREFs, the Joint Agreement also included separate recommendations for several other covered products.⁴ The amended standard levels recommended in the Joint Agreement for MREFs, which are expressed in terms of kilowatt hours per year (“kWh/yr”), are presented in table II.1. Details of the Joint Agreement recommendations for other products are provided in the Joint Agreement posted in the docket for this rulemaking.⁵

TABLE II.1—RECOMMENDED AMENDED ENERGY CONSERVATION STANDARDS FOR MISCELLANEOUS REFRIGERATION PRODUCTS

Product class	Level (based on AV (ft³))	Compliance date
1. Freestanding Compact Coolers (FCC)	5.52AV + 109.1	January 31, 2029.
2. Freestanding Coolers (FC)	5.52AV + 109.1	January 31, 2029.
3. Built-in Compact Coolers (BICC)	5.52AV + 109.1	January 31, 2029.
4. Built-in Coolers (BIC)	6.30AV + 124.6	January 31, 2029.
C–3A. Cooler with all-refrigerator—automatic defrost	4.11AV + 117.4	January 31, 2029.
C–3A–BI. Built-in cooler with all-refrigerator—automatic defrost	4.67AV + 133.0	January 31, 2029.
C–5–BI. NEW PRODUCT CLASS: Built-in cooler with refrigerator-freezer—automatic defrost with bottom-mounted freezer.	5.47AV + 196.2 + 28l	January 31, 2029.
C–9. Cooler with upright freezer with automatic defrost without an automatic icemaker	5.58AV + 147.7 + 28l	January 31, 2029.
C–9–BI. Built-in cooler with upright freezer with automatic defrost without an automatic icemaker.	6.38AV + 168.8 + 28l	January 31, 2029.
C–13A. Compact cooler with all-refrigerator—automatic defrost	4.74AV + 155.0	January 31, 2029.
C–13A–BI. Built-in compact cooler with all-refrigerator—automatic defrost	5.22AV + 170.5	January 31, 2029.

AV = Total adjusted volume, expressed in ft³, as determined in appendices A and B of subpart B of 10 CFR part 430.

l = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker.

After carefully considering the recommended energy conservation standards for MREFs in the Joint Agreement, DOE determined that these recommendations were in accordance with the statutory requirements of 42 U.S.C. 6295(p)(4) for the issuance of a direct final rule and published a direct final rule on May 7, 2024 (“May 2024 Direct Final Rule”). 89 FR 38762. DOE evaluated whether the Joint Agreement satisfies 42 U.S.C. 6295(o), as

applicable, and found that the recommended standard levels would result in significant energy savings and are technologically feasible and economically justified. *Id.* at 89 FR 38763–38770. Accordingly, DOE adopted the recommended efficiency levels for MREFs as the amended standard levels in the May 2024 Direct Final Rule. *Id.* at 89 FR 38828.

The standards adopted in the May 2024 Direct Final Rule apply to product

classes listed in table II.2 and manufactured in, or imported into, the United States starting on January 31, 2029. The May 2024 Direct Final Rule provides a detailed discussion of DOE’s analysis of the benefits and burdens of the amended standards pursuant to the criteria set forth in EPCA. *Id.* at 89 FR 38803–38831.

² The negotiated term sheets are available in docket ID EERE–2011–BT–STD–0043 on www.regulations.gov.

³ The signatories to the Joint Agreement include the association of Home Appliance Manufacturers (“AHAM”), American Council for an Energy-Efficient Economy, Alliance for Water Efficiency, Appliance Standards Awareness Project, Consumer Federation of America, Consumer Reports, Earthjustice, National Consumer Law Center, Natural Resources Defense Council, Northwest Energy Efficiency Alliance, and Pacific Gas and

Electric Company. Members of AHAM’s Major Appliance Division that manufacture the affected products include: Alliance Laundry Systems, LLC; Asko Appliances AB; Beko US Inc.; Brown Stove Works, Inc.; BSH; Danby Products, Ltd.; Electrolux Home Products, Inc.; Elicamex S.A. de C.V.; Faber; Fotile America; GEA, a Haier Company; L’Atelier Paris Haute Design LLC; LGEUSA; Liebherr USA, Co.; Midea America Corp.; Miele, Inc.; Panasonic Appliances Refrigeration Systems (PAPRSA) Corporation of America; Perlick Corporation; Samsung; Sharp Electronics Corporation; Smeg

S.p.A; Sub-Zero Group, Inc.; The Middleby Corporation; U-Line Corporation; Viking Range, LLC; and Whirlpool.

⁴ The Joint Agreement contained recommendations for 6 covered products: refrigerators, refrigerator-freezers, and freezers; clothes washers; clothes dryers; dishwashers; cooking products; and miscellaneous refrigeration products.

⁵ The Joint Agreement is available in the docket at: www.regulations.gov/document/EERE-2020-BT-STD-0039-0034.

TABLE II.2—ENERGY CONSERVATION STANDARDS FOR MREFS
[Compliance starting January 31, 2029]⁶

Product class ("PC")	Equations for maximum energy use (kWh/yr)
	Based on AV (ft³)
1. Freestanding Compact Coolers (FCC)	5.52AV + 109.1.
2. Freestanding Coolers (FC)	5.52AV + 109.1.
3. Built-in Compact Coolers (BICC)	5.52AV + 109.1.
4. Built-in Coolers (BIC)	6.30AV + 124.6.
C-3A. Cooler with all-refrigerator—automatic defrost	4.11AV + 117.4.
C-3A-BI. Built-in cooler with all-refrigerator—automatic defrost	4.67AV + 133.0.
C-5-BI. Built-in cooler with refrigerator-freezer—automatic defrost with bottom-mounted freezer	5.47AV + 196.2 + 28l.
C-9. Cooler with upright freezer with automatic defrost	5.58AV + 147.7 + 28l.
C-9-BI. Built-in cooler with upright freezer with automatic defrost	6.38AV + 168.8 + 28l.
C-13A. Compact cooler with all-refrigerator—automatic defrost	4.74AV + 155.0.
C-13A-BI. Built-in compact cooler with all-refrigerator—automatic defrost	5.22AV + 170.5.

AV = Total adjusted volume, expressed in ft³, as determined in appendices A and B of subpart B of 10 CFR part 430.
l = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker.

As required by EPCA, DOE also simultaneously published a NOPR proposing the identical standard levels contained in the May 2024 Direct Final Rule. 89 FR 38803. DOE then considered whether any comment received during the 110-day comment period following the publication of the May 2024 Direct Final Rule was adverse and provided a reasonable basis for withdrawal of the direct final rule under

the provisions in 42 U.S.C. 6295(p)(4)(C).
III. Comments on the Direct Final Rule
As discussed in section I of this document, not later than 120 days after publication of a direct final rule, DOE shall withdraw the direct final rule if: (1) DOE receives one or more adverse public comments relating to the direct final rule or any alternative joint

recommendation; and (2) based on the rulemaking record relating to the direct final rule, DOE determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule. (42 U.S.C. 6295(p)(4)(C)(i))
DOE received comments in response to the May 2024 Direct Final Rule from the interested parties listed in table III.1.

TABLE III.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE MAY 2024 DIRECT FINAL RULE

Commenter(s)	Abbreviation	Comment No. in the docket	Commenter type
Clean Future	Clean Future	44	Efficiency Advocate. Advocacy Organizations, Utilities.
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Consumer Federation of America, Consumer Reports, Earthjustice, National Consumer Law Center, Natural Resources Defense Council, Northwest Energy Efficiency Alliance, and Pacific Gas and Electric Company. Association of Home Appliance Manufacturers	ASAP <i>et al.</i>	45	
	AHAM	46	Trade Association.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.⁷ The following sections discuss the substantive comments DOE received on the May 2024 Direct Final Rule as well as DOE's determination that the comments are not adverse and thus do not provide a reasonable basis for withdrawal of the direct final rule.

A. General Comments

AHAM and ASAP *et al.* expressed support for the May 2024 Direct Final Rule for MREFs because the May 2024 Direct Final Rule establishes standards that are consistent with

recommendations submitted in the Joint Agreement. (AHAM, No. 46 at pp. 1–4, 8; ASAP *et al.*, No. 45 at pp. 1–2) ASAP *et al.* stated that they supported the price learning methodology in the analysis for the May 2024 Direct Final Rule and they do not expect the standards for MREFs to have any impact on product reliability. (ASAP *et al.*, No. 45 at pp. 2–3)
AHAM further commented that the May 2024 Direct Final Rule standards meet the statutory criteria for amending standards set forth in 42 U.S.C. 6295(o) and that DOE has satisfied the criteria for issuing a direct final rule. (AHAM,

No. 46 at pp. 4–6) AHAM supported the compliance dates adopted in the May 2024 Direct Final Rule and DOE's commitment in the May 2024 Direct Final Rule to consider the processes by which DOE analyzes energy and water conservation standards in a separate rulemaking considering all product categories. (*Id.* at p. 6)
Clean Future also expressed support for the amended standards adopted by the May 2024 Direct Final Rule. (Clean Future, No. 44 at p. 1)
B. Typographical Error Correction
AHAM identified a typographical error in the table of amended standards

⁶ This table corrects typographical errors in the May 2024 Direct Final Rule in the product class descriptions for product classes C-9 and C-9-BI, as discussed further in section III.B of this document.

⁷ The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop energy conservation standards for MREFs. (Docket No. EERE-2020-BT-

STD-0039, which is maintained at: www.regulations.gov). The references are arranged as follows: (commenter name, comment docket ID number at page of that document).

published in the May 2024 Direct Final Rule. DOE adopted consolidated product classes in the table of amended standards at 10 CFR 430.32(aa)(2) but did not remove the descriptive words “without an automatic icemaker” in the descriptions of product classes C–9 and C–9–BI. (AHAM, No. 46 at p. 7)

DOE acknowledges that the description as currently found in the May 2024 Direct Final Rule inadvertently included the descriptive words “without an automatic icemaker” in the descriptions of product classes C–9 and C–9–BI. Indeed, as referenced by AHAM, the May 2024 Direct Final Rule adopted consolidated product classes that incorporate icemaker energy adders into the energy use equations for which they are applicable, rather than defining separate product classes with and without icemakers, as is done for the current energy conservation standards codified at 10 CFR 430.32(aa)(2). See 89 FR 38762, 38776–38777. This document corrects the typographical error identified by AHAM and removes the unnecessary words “without an automatic icemaker” from the product class descriptions for product classes C–9 and C–9–BI.

In correcting the descriptions of product classes C–9 and C–9–BI in this confirmation document, DOE is aligning the product class description with the intent of the May 2024 Direct Final Rule to adopt consolidated product classes that incorporate icemaker energy adders into the energy use equations for which they are applicable, rather than defining separate product classes with and without icemakers. See *id.* Because this amendment is a clarifying correction and makes no substantive changes to the May 2024 Direct Final Rule, the changes addressed in this document are technical in nature.

DOE has concluded that the determinations made pursuant to the various procedural requirements applicable to the May 2024 Direct Final Rule remain unchanged for this final rule technical correction. These determinations are set forth in the May 2024 Direct Final Rule. *Id.* at 89 FR 38831–38834.

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B), DOE finds that there is good cause to not issue a separate request to solicit public comment on the changes contained in this document. Issuing a separate request to solicit public comment would be impracticable, unnecessary, and contrary to the public interest. Neither the errors nor the corrections in this document affect the substance of the May 2024 Direct Final Rule or any of the conclusions reached

in support of the direct final rule. Providing prior notice and an opportunity for public comment on correcting objective, typographical errors that do not change the substance of the energy conservation standards serves no useful purpose.

Further, this rule correcting a regulatory text error makes non-substantive changes to the product classes subject to the energy conservation standards. As such, this rule is not subject to the 30-day delay in effective date requirement of 5 U.S.C. 553(d) otherwise applicable to rules that make substantive changes.

IV. Impact of Any Lessening of Competition

EPCA directs DOE to consider any lessening of competition that is likely to result from new or amended standards. (42 U.S.C. 629(p)(4)(A)(i) and (C)(i)(II); 42 U.S.C. 6295(o)(2)(B)(i)(V)) It also directs the Attorney General of the United States (“Attorney General”) to determine the impact, if any, of any lessening of competition likely to result from a proposed standard and to transmit such determination to the Secretary within 60 days of the publication of a proposed rule, together with an analysis of the nature and extent of the impact. (42 U.S.C. 6295(o)(2)(B)(i)(V) and (B)(ii)) To assist the Attorney General in making this determination, DOE provided the Department of Justice (“DOJ”) with copies of the May 2024 Direct Final Rule, the corresponding NOPR, and the May 2024 Direct Final Rule TSD for review. DOE has published DOJ’s comments at the end of this document.

In its letter responding to DOE, DOJ concluded that, based on its review, it is unlikely that the proposed energy conservation standards for MREFs would have a significant adverse impact on competition.

V. Review Under the National Environmental Policy Act of 1969

Pursuant to the National Environmental Policy Act of 1969 (“NEPA”), DOE had analyzed the direct final rule in accordance with NEPA and DOE’s NEPA implementing regulations (10 CFR part 1021). DOE has determined that this rule qualifies for categorical exclusion under 10 CFR part 1021, subpart D, appendix B5.1 because it is a rulemaking that establishes energy conservation standards for consumer products or industrial equipment, none of the exceptions identified in B5.1(b) apply, no extraordinary circumstances exist that require further environmental analysis, and it meets the requirements for application of a categorical

exclusion. See 10 CFR 1021.410. Therefore, DOE has determined that promulgation of this direct final rule is not a major Federal action significantly affecting the quality of the human environment within the meaning of NEPA and does not require an environmental assessment or an environmental impact statement.

VI. Conclusion

In summary, based on the previous discussion, DOE has determined that it did not receive any adverse comments in response to the direct final rule for amended energy conservation standards for MREFs. As a result, the energy conservation standards set forth in the direct final rule became effective on September 4, 2024. Compliance with these standards is required on and after January 31, 2029.

Signing Authority

This document of the Department of Energy was signed on September 20, 2024, by Jeffrey Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 23, 2024.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons set forth in the preamble, DOE amends part 430 of chapter II, subchapter D, of title 10 of the Code of Federal Regulations, by making the following technical correction:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.
■ 2. Amend § 430.32 by revising paragraph (aa)(2)(ii) to read as follows:
§ 430.32 Energy and water conservation standards and their compliance dates.
* * * * *

(aa) * * *
(2) * * *
(ii) Combination cooler refrigeration products manufactured on or after January 31, 2029, shall have an Annual Energy Use (AEU) no more than:

Product class	AEU (kWh/yr)
C–3A. Cooler with all-refrigerator—automatic defrost	4.11AV + 117.4.
C–3A–BI. Built-in cooler with all-refrigerator—automatic defrost	4.67AV + 133.0.
C–5–BI. Built-in cooler with refrigerator-freezer with automatic defrost with bottom-mounted freezer	5.47AV + 196.2 + 28l.
C–9. Cooler with upright freezer with automatic defrost	5.58AV + 147.7 + 28l.
C–9–BI. Built-in cooler with upright freezer with automatic defrost	6.38AV + 168.8 + 28l.
C–13A. Compact cooler with all-refrigerator—automatic defrost	4.74AV + 155.0.
C–13A–BI. Built-in compact cooler with all-refrigerator—automatic defrost	5.22AV + 170.5.

AV = Total adjusted volume, expressed in ft³, as determined in appendix A to subpart B of this part.
l = 1 for a product with an automatic icemaker and = 0 for a product without an automatic icemaker.

* * * * *
Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix A

July 9, 2024
Ami Grace-Tardy
Assistant General Counsel for Legislation,
Regulation and Energy Efficiency
U.S. Department of Energy
Washington, DC 20585
Ami.Grace-Tardy@hq.doe.gov
Re: Conservation Standards for
Miscellaneous Refrigeration Products DOE
Docket No. EERE–2020–BT–STD–0039
Dear Assistant General Counsel Grace-Tardy:
I am responding to your May 10, 2024,
letter seeking the views of the Attorney
General about the potential impact on
competition of proposed energy conservation
standards for miscellaneous refrigeration
products (MREFs).
Your request was submitted under Section
325(o)(2)(B)(i)(V) of the Energy Policy and
Conservation Act, as amended (ECPA), 42
U.S.C. 6295(o)(2)(B)(i)(V), which requires the
Attorney General to make a determination of
the impact of any lessening of competition
that is likely to result from the imposition of
proposed energy conservation standards. The
Attorney General’s responsibility for
responding to requests from other
departments about the effect of a program on
competition has been delegated to the
Assistant Attorney General for the Antitrust
Division in 28 CFR 0.40(g). The Assistant
Attorney General for the Antitrust Division
has authorized me, as the Policy Director for
the Antitrust Division, to provide the
Antitrust Division’s views regarding the
potential impact on competition of proposed
energy conservation standards on his behalf.
In conducting its analysis, the Antitrust
Division examines whether a proposed
standard may lessen competition, for
example, by substantially limiting consumer
choice, by placing certain manufacturers at
an unjustified competitive disadvantage, or
by inducing avoidable inefficiencies in
production or distribution of particular

products. A lessening of competition could
result in higher prices to manufacturers and
consumers.
We have reviewed the proposed standards
contained in the Notice of Proposed
Rulemaking (89 FR 37987, May 7, 2024), the
Direct Final Rule (89 FR 38762, May 7, 2024),
and the related Technical Support
Documents (TSD) that accompanied them.
We have also reviewed the Docket and noted
that, as of July 9, 2024, no public comments
had been filed in response to the Notice of
Proposed Rulemaking or the Direct Final
Rule.
Based on this review, our conclusion is
that the proposed energy conservation
standards for MREFs are unlikely to have a
significant adverse impact on competition.
Sincerely,
/s/
David G.B. Lawrence,
Policy Director.
[FR Doc. 2024–22131 Filed 9–27–24; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431
[EERE–2022–BT–STD–0015]
RIN 1904–AF34

Energy Conservation Program: Energy Conservation Standards for Air-Cooled Commercial Package Air Conditioners and Heat Pumps

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.
ACTION: Direct final rule; confirmation of effective and compliance dates.

SUMMARY: The U.S. Department of Energy (“DOE”) published a direct final rule to establish amended energy conservation standards for air-cooled commercial package air conditioners and heat pumps with a rated cooling

capacity greater than or equal to 65,000 Btu/h in the **Federal Register** on May 20, 2024. DOE has determined that the comments received in response to the direct final rule do not provide a reasonable basis for withdrawing the direct final rule. Therefore, DOE provides this document confirming the effective and compliance dates of those standards.
DATES: The effective date of September 17, 2024, for the direct final rule published on May 20, 2024, (89 FR 44052) is confirmed. Compliance with the standards established in the direct final rule will be required on and after January 1, 2029.
ADDRESSES: The docket for this rulemaking, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at www.regulations.gov. All documents in the docket are listed in the www.regulations.gov index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.
The docket web page can be found at www.regulations.gov/docket/EERE-2022-BT-STD-0015. The docket webpage contains instructions on how to access all documents, including public comments, in the docket.
For further information on how to submit a comment or review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: ApplianceStandardsQuestions@ee.doe.gov.
FOR FURTHER INFORMATION CONTACT:

Dr. Pradeep Prathibha, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE-5B, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (240) 255-0630. Email: ApplianceStandardsQuestions@ee.doe.gov.

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC-33, 1000 Independence Avenue SW, Washington, DC 20585-0121. Telephone: (202) 586-4798. Email: Eric.Stas@hq.doe.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Authority
- II. Air-Cooled Commercial Unitary Air Conditioners and Heat Pumps Direct Final Rule
 - A. Background
- III. Comments on the Direct Final Rule
 - A. General Comments
 - B. Certification
- IV. Impact of Any Lessening of Competition
- V. Conclusion

I. Authority

The Energy Policy and Conservation Act, Public Law 94-163, as amended ("EPCA"),¹ authorizes DOE to issue a direct final rule establishing an energy conservation standard for covered equipment on receipt of a statement submitted jointly by interested persons that are fairly representative of relevant points of view (including representatives of manufacturers of covered equipment, States, and efficiency advocates), as determined by the Secretary of Energy ("Secretary"), that contains recommendations with respect to an energy or water conservation standard that are in accordance with the provisions of 42 U.S.C. 6295(o) or 42 U.S.C. 6313(a)(6)(B), as applicable. (42 U.S.C. 6316(b)(1); 42 U.S.C. 6295(p)(4))

The direct final rule must be published simultaneously with a notice of proposed rulemaking ("NPR") that proposes an energy or water conservation standard that is identical to the standard established in the direct final rule, and DOE must provide a public comment period of at least 110 days on this proposal. (42 U.S.C. 6316(b)(1); 42 U.S.C. 6295(p)(4)(A)-(B)) Not later than 120 days after issuance of the direct final rule, DOE shall withdraw the direct final rule if: (1) DOE receives one or more adverse

public comments relating to the direct final rule or any alternative joint recommendation; and (2) based on the rulemaking record relating to the direct final rule, DOE determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule. (42 U.S.C. 6316(b)(1); 42 U.S.C. 6295(p)(4)(C)) If DOE makes such a determination, DOE must proceed with the NPR published simultaneously with the direct final rule and publish in the **Federal Register** the reasons why the direct final rule was withdrawn. (*Id.*)

After review of comments received, DOE has determined that it did not receive any adverse comments providing a basis for withdrawal described above for the direct final rule that is the subject of this document. As such, DOE did not withdraw this direct final rule and allowed it to become effective. Although not required under EPCA, where DOE does not withdraw a direct final rule, DOE customarily publishes a summary of the comments received during the 110-day comment period and its responses to those comments. This document contains such a summary, as well as DOE's responses to the comments.

II. Air-Cooled Commercial Unitary Air Conditioners and Heat Pumps Direct Final Rule

A. Background

Small, large, and very large commercial package air conditioning and heating equipment are covered equipment under EPCA. (42 U.S.C. 6311(1)(B)-(D)) Such equipment includes as equipment categories air-cooled commercial unitary air conditioners with a rated cooling capacity greater than or equal to 65,000 Btu/h and less than 760,000 Btu/h ("ACUACs") and air-cooled commercial unitary heat pumps with a rated cooling capacity greater than or equal to 65,000 Btu/h and less than 760,000 Btu/h ("ACUHPs") (excluding double-duct air conditioners and heat pumps), which are the subject of this rulemaking.²

² While ACUACs and ACUHPs with rated cooling capacity less than 65,000 Btu/h are included in the broader category of commercial unitary air conditioners and heat pumps ("CUACs and CUHPs"), they are not addressed in this rulemaking. The standards for ACUACs and ACUHPs with rated cooling capacity less than 65,000 Btu/h have been addressed in a separate rulemaking (see Docket No. EERE-2022-BT-STD-0008). Additionally, while double-duct air conditioners and heat pumps are air-cooled commercial package air conditioning and heating equipment, they are not addressed in this rulemaking. Double-duct systems will be addressed in a separate rulemaking process. Accordingly, all

In a direct final rule published in the **Federal Register** on January 15, 2016 ("January 2016 Direct Final Rule"), DOE prescribed the current energy conservation standards for ACUACs and ACUHPs manufactured on and after January 1, 2023.³ 81 FR 2420. These standards are set forth in DOE's regulations at title 10 of the Code of Federal Regulations ("CFR") section 431.97(b).

DOE's current energy conservation standards are expressed in terms of integrated energy efficiency ratio ("IEER") for the cooling efficiency of ACUACs and ACUHPs, and in terms of coefficient of performance ("COP") for the heating efficiency of ACUHPs. (See 10 CFR 431.97(b)) To demonstrate compliance with the current energy conservation standards, manufacturers must use the test procedure provided at 10 CFR part 431, subpart F, appendix A ("appendix A"), *Uniform Test Method for the Measurement of Energy Consumption of Commercial Package Air Conditioning and Heating Equipment (Excluding Air-Cooled Equipment With a Cooling Capacity Less Than 65,000 Btu/h)*.

Since publication of the January 2016 Direct Final Rule, the American Society of Heating, Refrigerating, and Air-Conditioning Engineers ("ASHRAE") published an updated version of ASHRAE Standard 90.1 ("ASHRAE Standard 90.1-2016"), which updated the minimum efficiency levels for ACUACs and ACUHPs to align with the first tier of minimum efficiencies adopted by DOE in the January 2016 Direct Final Rule (which had a compliance date of January 1, 2018). ASHRAE subsequently published another updated version of ASHRAE Standard 90.1 ("ASHRAE Standard 90.1-2019"), which updated the minimum efficiency levels for ACUACs and ACUHPs to align with both tiers adopted by DOE in the January 2016 Direct Final Rule (*i.e.*, specifying two tiers of minimum levels for ACUACs and ACUHPs, with a January 1, 2023, compliance date for the second tier).⁴

references within this direct final rule to ACUACs and ACUHPs exclude equipment with rated cooling capacity less than 65,000 Btu/h and double-duct systems.

³ The January 2016 Direct Final Rule adopted a two-tiered standard approach that applied a first tier of minimum efficiency levels for compliance on January 1, 2018, and a second tier of higher minimum efficiency levels for compliance on January 1, 2023. 81 FR 2420, 2489-2490, 2531 (Jan. 15, 2016).

⁴ ASHRAE Standard 90.1-2022 was published in January 2023, but it did not affect the standards being considered in this rulemaking or trigger DOE for this equipment.

¹ All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116-260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A-1 of EPCA.

On May 12, 2020, DOE began its six-year-lookback review for ACUACs and ACUHPs by publishing in the **Federal Register** an energy conservation standards (“ECS”) request for information (“RFI”) (referred to hereafter as the “May 2020 ECS RFI”).⁵ 85 FR 27941. The May 2020 ECS RFI sought information to help DOE inform its decisions, consistent with its obligations under EPCA. DOE received multiple comments from interested stakeholders in response to the May 2020 ECS RFI, which prompted DOE to publish a test procedure and energy conservation notice RFI (referred to hereafter as the “May 2022 TP/ECS RFI”) in the **Federal Register** on May 25, 2022, to investigate additional aspects of the ACUAC and ACUHP test procedure and energy conservation standards. 87 FR 31743.

On July 29, 2022, DOE published in the **Federal Register** a notice of intent to establish a working group for commercial unitary air conditioners and heat pumps to negotiate proposed test procedures and amended energy conservation standards for this equipment (“July 2022 Notice of Intent”). 87 FR 45703. The Appliance Standards and Rulemaking Federal Advisory Committee (“ASRAC”) established the ASRAC ACUAC/HP Working Group (hereinafter referred to as “the ACUAC/HP Working Group”) in accordance with the Federal Advisory Committee Act (“FACA”) (5 U.S.C. App 2) and the Negotiated Rulemaking Act (“NRA”) (5 U.S.C. 561–570, Pub. L. 104–320). The purpose of the ACUAC/HP Working Group was to discuss, and if possible, reach consensus on

recommended amendments to the test procedures and energy conservation standards for ACUACs and ACUHPs. The ACUAC/HP Working Group consisted of 14 voting members, including DOE. (See appendix A, Working Group Members, Document No. 65 in Docket No. EERE–2022–BT–STD–0015) On December 15, 2022, the ACUAC/HP Working Group signed a term sheet (“ACUAC/HP Working Group TP Term Sheet”) of recommendations regarding ACUAC and ACUHP test procedures, including two new efficiency metrics: integrated ventilation, economizing, and cooling (“IVEC”) and integrated ventilation and heating efficiency (“IVHE”). (See *Id.*)

The ACUAC/HP Working Group met five times to discuss energy conservation standards for ACUACs and ACUHPs. These meetings took place on February 22–23, March 21–22, April 12–13, April 26–27, and May 1, 2023. As a result of these efforts, the ACUAC/HP Working Group successfully reached consensus on recommended energy conservation standards in terms of the new IVEC and IVHE metrics for ACUACs and ACUHPs. On May 1, 2023, the ACUAC/HP Working Group signed a term sheet (“ACUAC/HP Working Group ECS Term Sheet”) outlining its recommendations regarding ACUAC and ACUHP standards in terms of the new efficiency metrics, IVEC and IVHE, which ASRAC approved on October 17, 2023.⁶

DOE determined that the ACUAC/ACUHP Working Group statement containing recommendations with respect to energy conservation standards for ACUACs and ACUHPs were in

accordance with the statutory requirements of 42 U.S.C. 6295(p)(4)(A); 42 U.S.C. 6316(b)(1) for the issuance of a direct final rule and published a direct final rule in the **Federal Register** on May 20, 2024 (“May 2024 Direct Final Rule”). 89 FR 44052, 44064–44065. DOE simultaneously published a final rule in the **Federal Register** amending the current test procedure, Appendix A, to incorporate by reference the most recent version of the industry test procedure, AHRI 340/360–2022, for ACUACs, ACUHPs, evaporatively-cooled commercial unitary air conditioners (“ECUACs”), and water-cooled commercial unitary air conditioners (“WCAUCs”) and establishing a new test procedure appendix A1 to subpart F of 10 CFR 431.96 (“appendix A1”) referencing a new industry test procedure, AHRI 1340–2023, for any standards denominated in terms of IVEC and IVHE. (“May 2024 TP Final Rule”). 89 FR 43986 (May 20, 2024).

Accordingly, DOE adopted the recommended efficiency levels for ACUACs and ACUHPs as the amended standard levels in the May 2024 Direct Final Rule. 89 FR 44052, 44135 (May 20, 2024).

The standards adopted in the May 2024 Direct Final Rule apply to the equipment classes listed in table II.1 and that are manufactured in, or imported into, the United States starting on January 1, 2029. The May 2024 Direct Final Rule provides a detailed discussion of DOE’s analysis of the benefits and burdens of the amended standards pursuant to the criteria set forth in EPCA. *Id.* at 89 FR 44124–44134.

TABLE II.1—ENERGY CONSERVATION STANDARDS FOR ACUACs AND ACUHPs
[Compliance Starting January 1, 2029]

Cooling capacity	Subcategory	Supplementary heating type	Minimum efficiency
≥65,000 Btu/h and <135,000 Btu/h	AC	Electric Resistance Heating or No Heating	IVEC = 14.3
	HP	All Other Types of Heating	IVEC = 13.8
		All Types of Heating	IVEC = 13.4
≥135,000 Btu/h and <240,000 Btu/h	AC	Electric Resistance Heating or No Heating	IVEC = 13.8
	HP	All Other Types of Heating	IVEC = 13.3
		All Types of Heating	IVEC = 13.1
≥240,000 Btu/h and <760,000 Btu/h	AC	Electric Resistance Heating or No Heating	IVEC = 12.9
	HP	All Other Types of Heating	IVEC = 12.2
		All Types of Heating	IVEC = 12.1
			IVHE = 5.8

As required by EPCA, DOE also simultaneously published a NOPR

proposing the identical standard levels contained in the May 2024 Direct Final

Rule. 89 FR 43770 (May 20, 2024). DOE considered whether any adverse

⁵ The May 2020 ECS RFI also addressed commercial warm air furnaces, a separate type of covered equipment which was subsequently

handled in a different rulemaking proceeding (see Docket No. EERE–2019–BT–STD–0042 in www.regulations.gov).

⁶ The ACUAC/HP Working Group ECS Term Sheet is available at www.regulations.gov/document/EERE-2022-BT-STD-0015-0087.

comment received during the 110-day comment period following the publication of the May 2024 Direct Final Rule provided a reasonable basis for withdrawal of the direct final rule under the provisions in 42 U.S.C. 6295(p)(4)(C) and 42 U.S.C. 6316(b)(1).

III. Comments on the Direct Final Rule

As discussed in section I of this document, not later than 120 days after publication of a direct final rule, DOE shall withdraw the direct final rule if: (1) DOE receives one or more adverse public comments relating to the direct final rule or any alternative joint recommendation; and (2) based on the

rulemaking record relating to the direct final rule, DOE determines that such adverse public comments or alternative joint recommendation may provide a reasonable basis for withdrawing the direct final rule. (42 U.S.C. 6316(b)(1); 42 U.S.C. 6295(p)(4)(C)(i))

DOE received comments in response to the May 2024 Direct Final Rule from the interested parties listed in table III.1.

TABLE III.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE MAY 2024 DIRECT FINAL RULE

Commenter(s)	Abbreviation	Comment No. in the docket	Commenter type
Julian Anderson	Anderson	102	Individual.
Anonymous	Anonymous	103	Individual.
Appliance Standards Awareness Project, the American Council for an Energy-Efficient Economy, and the Northwest Energy Efficiency Alliance.	ASAP, ACEEE, and NEEA.	106	Efficiency Advocacy Organizations.
Pacific Gas and Electric Company (PG&E), San Diego Gas and Electric (SDG&E), and Southern California Edison (SCE) (collectively referred to as the California Investor-Owned Utilities).	CA IOUs	104 * and 105	Utilities.

* The CA IOUs submitted a duplicate comment in response to the NOPR that accompanied the direct final rule. Therefore, both comment submissions are included in this table.

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.⁷ The following sections discuss the substantive comments DOE received on the May 2024 Direct Final Rule, as well as DOE's determination that the comments do not provide a reasonable basis for withdrawal of the direct final rule.

A. General Comments

ASAP, ACEEE, and NEEA and the CA IOUs supported the standards in the May 2024 Direct Final Rule, as they align with the levels prescribed in Recommendation #1 of the ACUAC/HP Working Group ECS Term Sheet. (ASAP, ACEEE, and NEEA, No. 106 at p. 1; CA IOUs, Nos. 104 and 105 at pp. 1–2) The CA IOUs supported the effective date of January 1, 2029, for these standards. (CA IOUs, Nos. 104 and 105 at p. 2)

ASAP, ACEEE, and NEEA commented that the new efficiency metrics, IVEC and IVHE, would improve the representativeness of the efficiency ratings and better capture the total energy consumption of the cooling and heating seasons. (ASAP, ACEEE, and NEEA, No. 106 at p. 1) ASAP, ACEEE, and NEEA commented that the standards would reduce national energy

consumption, cut carbon emissions, and provide net present value savings for consumers. (*Id.*) ASAP, ACEEE, and NEEA commented that small-capacity ACUACs have the largest market share and would use almost 23 percent less energy with the amended standards than ones just meeting the current standard. (*Id.*) ASAP, ACEEE, and NEEA further commented that the amended standards would provide large life-cycle cost savings for consumers, with short payback periods relative to the lifetime of ACUACs and ACUHPs. (*Id.* at p. 2)

Anderson supported the May 2024 Direct Final Rule, stating that it would be the next step towards greater energy efficiency and emissions reductions and that it would drive innovation to support economic savings and a more sustainable environment. (Anderson, No. 102 at p. 1)

DOE agrees with these comments which are in accord with the amended standards set forth in the May 2024 Direct Final Rule.

An anonymous commenter stated that ASHRAE 241 standards or better must be adopted. (Anonymous, No. 103 at p. 1)

In response to the anonymous commenter, ASHRAE Standard 241, *Control of Infectious Aerosols*, (“ASHRAE 241”) addresses the design, installation, commissioning, and maintenance of HVAC systems to control the spread of infectious aerosols. As such, the provisions of ASHRAE 241 are outside the scope of consideration for this rulemaking. Therefore, DOE has determined that the comment regarding adoption of ASHRAE 241 provided by

this anonymous commenter does not provide a reasonable basis to withdraw the May 2024 Direct Final Rule.

B. Certification

The CA IOUs urged DOE to initiate a certification rulemaking at its earliest convenience such that Recommendation #2 of the ACUAC/HP Working Group ECS Term Sheet could be implemented allowing for certification of ACUACs and ACUHPs using the new metrics and reporting fields. (CA IOUs, No. 104 and 105 at p. 2) The CA IOUs specifically requested that manufacturers publicly certify the crankcase heat wattage for each compressor stage, and the 5 °F heating capacity and COP, if applicable. (*Id.*) The CA IOUs commented that the early implementation of a certification rulemaking would clarify the certification requirements and process and facilitate early compliance for manufacturers before the amended standards' effective date of January 1, 2029. (*Id.*)

In response, DOE acknowledges that certification data will be required for ACUACs and ACUHPs; however, DOE did not amend the existing or adopt new certification or reporting requirements for ACUACs and ACUHPs in the May 2024 Direct Final Rule. 89 FR 44052, 44132 (May 20, 2024). Instead, DOE may consider proposals to establish associated certification requirements and reporting for ACUACs and ACUHPs under a separate, future rulemaking regarding appliance and equipment certification.

⁷ The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop energy conservation standards for the subject ACUACs and ACUHPs. (Docket No. EERE-2022-BT-STD-0015, which is maintained at: www.regulations.gov). The references are arranged as follows: (commenter name, comment docket ID number at page of that document).

IV. Impact of Any Lessening of Competition

EPCA directs DOE to consider the impact of any lessening of competition, as determined in writing by the Attorney General of the United States (“Attorney General”), that is likely to result from a standard. (42 U.S.C. 6316(b)(1); 42 U.S.C. 6295(p)(4)(A)(i); 42 U.S.C. 6313(a)(6)(B)(ii)(V)) To assist the Attorney General in making this determination, DOE provided the Department of Justice (“DOJ”) with copies of the May 2024 Direct Final Rule, the corresponding NOPR, and the May 2024 DirectFinal Rule Technical Support Document for review. DOE has published DOJ’s comments at the end of this document in appendix A.

In its letter responding to DOE, DOJ concluded that, based on its review, the proposed energy conservation standards in the Direct Final Rule are unlikely to have a significant adverse impact on competition.

V. Conclusion

In summary, based on the previous discussion, DOE has determined that the comments received in response to the direct final rule for amended energy conservation standards for the subject ACUACs and ACUHPs do not provide a reasonable basis for withdrawal of the direct final rule. As a result, the energy conservation standards set forth in the direct final rule became effective on September 17, 2024. Compliance with these standards is required on and after January 1, 2029.

Signing Authority

This document of the Department of Energy was signed on September 20, 2024, by Jeffrey Marootian, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative

purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on September 23, 2024.

Treena V. Garrett

*Federal Register Liaison Officer, U.S.
Department of Energy.*

Note: The following appendix will not appear in the Code of Federal Regulations.

Appendix A

BILLING CODE 6450–01–P



U.S. Department of Justice

Antitrust Division

*RFK Main Justice Building
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001*

July 22, 2024

Ami Grace-Tardy
Assistant General Counsel for Legislation, Regulation and
Energy Efficiency
U.S. Department of Energy
Washington, DC 20585
Ami.Grace-Tardy@hq.doe.gov

Re: Conservation Standards for Air-Cooled Commercial Package Air Conditioners and
Heat Pumps
DOE Docket No. EERE-2022-BT-STD-0015

Dear Assistant General Counsel Grace-Tardy:

I am responding to your May 22, 2024, letter seeking the views of the Attorney General about the potential impact on competition of proposed energy conservation standards for air-cooled commercial package air conditioners and heat pumps.

Your request was submitted under Section 325(o)(2)(B)(i)(V) of the Energy Policy and Conservation Act, as amended (ECPA), 42 U.S.C. 6295(o)(2)(B)(i)(V), which requires the Attorney General to make a determination of the impact of any lessening of competition that is likely to result from the imposition of proposed energy conservation standards. The Attorney General's responsibility for responding to requests from other

departments about the effect of a program on competition has been delegated to the Assistant Attorney General for the Antitrust Division in 28 CFR § 0.40(g). The Assistant Attorney General for the Antitrust Division has authorized me, as the Policy Director for the Antitrust Division, to provide the Antitrust Division's views regarding the potential impact on competition of proposed energy conservation standards on his behalf.

In conducting its analysis, the Antitrust Division examines whether a proposed standard may lessen competition, for example, by substantially limiting consumer choice, by placing certain manufacturers at an unjustified competitive disadvantage, or by inducing avoidable inefficiencies in production or distribution of particular products. A lessening of competition could result in higher prices to manufacturers and consumers.

We have reviewed the proposed standards contained in the Notice of Proposed Rulemaking (89 Fed. Reg. 43770, May 20, 2024), the Direct Final Rule (89 Fed. Reg. 44052, May 20, 2024), and the related Technical Support Documents (TSD) that accompanied them. We have also reviewed the Docket and public comments filed in response to the related Request for Information.

Based on this review, our conclusion is that the proposed energy conservation standards for air-cooled commercial package air conditions and heat pumps are unlikely to have a significant adverse impact on competition.

Sincerely,

/s/

David G.B. Lawrence
Policy Director

[FR Doc. 2024–22081 Filed 9–27–24; 8:45 am]

BILLING CODE 6450–01–C

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 741, 746, 748, and 752

[NCUA–2023–0023]

RIN 3133–AF55

Fair Hiring in Banking

AGENCY: National Credit Union
Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing this final rule to incorporate Interpretive Ruling and Policy Statement (IRPS) 19–1 and the Fair Hiring in Banking Act (FHBA) into its regulations. The Federal Credit Union Act (FCU Act) generally prohibits, except with the Board's prior written

consent, any person who has been convicted of or has a program entry for certain criminal offenses involving dishonesty or breach of trust from participating in the affairs of an insured credit union. The final rule will expand career opportunities for individuals to work and volunteer at insured credit unions. The Board also rescinds IRPS 19–1.

DATES: The final rule is effective October 30, 2024.

FOR FURTHER INFORMATION CONTACT: Rachel Ackmann, Senior Staff Attorney, Office of General Counsel, and Pamela Yu, Special Counsel to the General Counsel, Office of General Counsel, at the above address or by calling (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

Section 205(d) of the Federal Credit Union Act (Section 205(d))

Prior to December 23, 2022, section 205(d)(1) of the Federal Credit Union Act (FCU Act) provided that, except with the prior written consent of the Board (the NCUA refers to applications for such consent as “consent applications”), a person who has been convicted of any criminal offense involving dishonesty or breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with the prosecution for such offense (collectively, covered offenses), may not:

- Become, or continue as, an institution-affiliated party (IAP) with respect to any insured credit union; or
- Otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union.¹

¹ 12 U.S.C. 1785(d)(1).

Section 205(d)(1)(B) further provides that an insured credit union may not allow any person described above to participate in the conduct of the affairs of the credit union without Board consent. Section 205(d)(2) restricts the Board from approving a consent application related to a person convicted of certain crimes enumerated in Title 18 of the United States Code (U.S.C.) for 10 years, absent a motion by the Board and approval by the sentencing court. Finally, section 205(d)(3) states that “whoever knowingly violates” section (d)(1)(A) or (d)(1)(B) commits a felony, punishable by up to 5 years in prison or a fine of up to \$1,000,000 a day, or both. Section 205(d) prohibitions have existed in some form since 1970, and since then federally insured credit unions have been required to make a diligent inquiry as to whether prospective employees or IAPs² are subject to a section 205(d) prohibition.³

In 2008, the Board adopted IRPS 08–1 to provide direction and guidance to federally insured credit unions and those persons who may be affected by section 205(d).⁴ The Board specifically sought comments as to whether the format of the guidance as an IRPS was appropriate or whether a regulation would be more suitable.⁵ The Board received some comments supporting guidance in the form of an IRPS and others supporting a regulation, but ultimately chose to issue the guidance through an IRPS.⁶

² The NCUA has made its administrative orders against IAPs available in a searchable database on the agency’s website. See <https://ncua.gov/news/enforcement-actions/administrative-orders>.

³ 73 FR 48399, 48401 (Aug. 19, 2008).

⁴ *Id.*

⁵ The Board had not previously adopted any policies or regulations on section 205(d), as the statute at that time imposed no guidance or limitations on the information that the Board may consider, and the Board received a limited number of applications under section 205(d). However, due to an increasing number of applications requesting the Board’s consent under section 205(d), the Board believed it was appropriate to issue guidance on the topic.

⁶ Two commenters believed that a regulation was the more appropriate format for the guidance. One of the commenters who favored a regulation thought a regulation provided greater protection to a credit union that might be challenged by a prospective employee. Another commenter believed a regulation was preferable because it would help reinforce a credit union’s right to appeal an adverse decision and subject future changes to public notice and comment. The Board concluded that the source of the requirement stems from Federal statute, namely section 205(d). Therefore, the Board believed that the need to comply with Federal law, as augmented by guidance in the form of an IRPS, was sufficient to protect a credit union. The Board believed that credit union officials should be able to adequately understand and apply the guidance styled as an IRPS and that the right to request a hearing contained in the IRPS provided a credit

union a sufficient right to appeal a denial of consent by the Board. Additionally, the Board noted that it would not amend its IRPS without providing the public notice and an opportunity to comment. For all these reasons, the Board believed it appropriate to issue the final guidance in the form of an IRPS.

IRPS 08–1 outlined the actions prohibited under the FCU Act and the procedures for applying the Board’s consent on a case-by-case basis. Recognizing that certain offenses are so minor and dated that they would not presently pose a substantial risk to the insured credit union, IRPS 08–1 excluded certain *de minimis* offenses that met specified requirements and juvenile offenses from the need to request consent from the Board. In effect, the IRPS gave automatic consent for these offenses without requiring a consent application or any notice. In 2019, the Board rescinded IRPS 08–1 and issued IRPS 19–1, a revised and updated IRPS to reduce regulatory burden (also known as the Second Chance IRPS).⁷ IRPS 19–1 amended IRPS 08–1 to expand the definition of *de minimis* offenses to reduce the scope and number of offenses that would require submission of a consent application to the Board. Specifically, the IRPS did not require a consent application for convictions involving insufficient funds checks of moderate aggregate value, small-dollar simple theft, false identification, simple drug possession, and isolated minor offenses committed by covered persons as young adults. The Board recognized that many Americans faced hiring barriers due to a criminal record, a great number of whom are not violent or career criminals, but rather people who made poor choices early in life who have since paid their debt to society. The Board found that offering second chances for career opportunities to those who are truly penitent was consistent with our nation’s shared values of forgiveness and redemption.

On December 23, 2022, Congress passed the National Defense Authorization Act for Fiscal Year 2023 (NDAA), which amended section 205(d).⁸ The NDAA included the FHBA—which became immediately effective on December 23, 2022. The FHBA amends section 205(d) to expand employment opportunities for those with a previous minor or older criminal offense, among other provisions. Generally, the amendments codify a number of elements already contained in the NCUA’s current policy regarding section 205(d) but also extend greater relief than what is currently available to certain individuals with prior

union a sufficient right to appeal a denial of consent by the Board. Additionally, the Board noted that it would not amend its IRPS without providing the public notice and an opportunity to comment. For all these reasons, the Board believed it appropriate to issue the final guidance in the form of an IRPS.

⁷ 84 FR 65907 (Dec. 2, 2019).

⁸ Public Law 117–263 (Dec. 23, 2022).

convictions seeking employment with an insured credit union, particularly individuals with older convictions, expunged convictions, or prior convictions for a misdemeanor, any drug-related possession offense, or certain designated “lesser offenses.” The FHBA also clarifies several definitions and the procedures for processing a consent application.⁹ The specific provisions of the FHBA are discussed in detail later in this preamble.

Section 19 of the Federal Deposit Insurance Act

Section 19 of the Federal Deposit Insurance Act (section 19) contains a prohibition provision similar to section 205(d) of the FCU Act.¹⁰ Before 2020, the Federal Deposit Insurance Corporation (FDIC) provided the public with guidance relating to section 19 and the FDIC’s application thereof through a Statement of Policy similar to the NCUA’s IRPS 19–1.¹¹ Similar to the NCUA’s IRPS, the FDIC’s Statement of Policy, among other things, instituted a set of criteria to provide for blanket approval of certain low-risk crimes and for persons convicted of such *de minimis* crimes to forgo filing a section 19 consent application.

In 2020, the FDIC revised and incorporated its then existing Statement of Policy into its regulations to, among other purposes, provide for greater transparency as to its section 19 application, provide greater certainty as to the FDIC’s application process, and to assist both insured depository institutions and individuals who may be affected by section 19 with understanding its impact and potentially seek relief from its provisions.¹²

In December 2022, the FHBA made amendments to section 19 that are comparable to the amendments made in section 205(d). The FDIC proposed to implement these changes through a notice-and-comment rulemaking in November 2023.¹³ The FDIC finalized its rulemaking on August 7, 2024.¹⁴

Coordination With the FDIC

In the past, the NCUA has drawn on the FDIC’s guidance related to section

⁹ Under the FHBA, a “consent application” means “an application filed with [the] Board by an individual (or by an insured credit union on behalf of an individual) seeking the written consent of the Board under [12 U.S.C. 1785(d)(1)(A)].” 12 U.S.C. 1785(d)(6)(A).

¹⁰ 12 U.S.C. 1829(a).

¹¹ See 84 FR 68353 (Dec. 16, 2019).

¹² *Id.*; 85 FR 51312 (Aug. 20, 2020) (FDIC 2020 final rule).

¹³ 88 FR 77906 (Nov. 14, 2023).

¹⁴ 89 FR 64353 (Aug. 7, 2024).

19 due to the FDIC's greater experience processing section 19 consent applications. Further, in the Board's view it is beneficial to both insured financial institutions and covered individuals for the NCUA's section 205(d) related requirements to be consistent, to the extent possible, with the FDIC's section 19 requirements. Consistent guidelines between the two agencies with respect to these parallel statutory provisions help streamline the consent application process, particularly for those individuals seeking consent from both the NCUA and the FDIC to allow for potential employment at federally insured financial institutions. The FHBA formalizes the expectation that the agencies implement these comparable statutory provisions similarly and requires the NCUA and the FDIC to consult and coordinate to promote consistent procedures, where appropriate.¹⁵ The Board finds that adopting similar definitions, terminology, and procedures in this final rule will promote consistent implementation of consent applications because even those provisions that fall outside the scope of consent applications are likely to affect how the agency administers those applications. The NCUA and the FDIC have consulted and coordinated on this rulemaking as directed by the FHBA. Additionally, the NCUA has consulted with the Board of Governors of the Federal Reserve System and the Office of the Comptroller of the Currency.

II. Proposed Rule and Public Comments

At its October 19, 2023, meeting, the Board issued a proposed rule¹⁶ to add new part 752 to chapter VII of title 12 of the U.S. Code of Federal Regulations (CFR) to codify IRPS 19–1, along with significant changes that are consistent with the FHBA amendments to section 205(d) and the FDIC's comparable implementing regulations.¹⁷ The proposed rule addressed, among other topics, the individuals and types of offenses covered by section 205(d), as well as the NCUA's procedures for

reviewing a consent application. The proposed rule provided for a 60-day comment period, which ended on January 8, 2024. The Board received 10 public comments on the proposal from individuals, a fidelity bond provider, a faith-based association advocating for the rights of the accused and incarcerated, and national, state, and regional organizations representing credit unions.¹⁸

The NCUA requested comments on all aspects of its approach to section 205(d) and, specifically, the following topics:

- the date on which a criminal offense “occurred” or was “committed;”
- the date on which “sentencing occurred;”
- whether section 205(d) encompasses foreign convictions and pretrial diversions;
- the standard for expungements, sealings, and dismissals;
- “offenses involving controlled substances;” and
- *de minimis* offenses.

Most commenters opted to provide general comments rather than address the specific questions posed in the preamble. Only one commenter specifically addressed each of the eight questions presented.

Four commenters expressed broad support for providing second chances and expanding employment opportunities to those with criminal offense backgrounds but did not provide substantive comments on the proposed rule. Of those commenters that provided substantive comments, all were generally supportive of the proposed rule. One commenter noted that the proposed rule enhances the ability of credit unions to make their own hiring decisions and decreases the instances where a consent application would need to be submitted. Two commenters wrote that by modifying and expanding the current *de minimis* offenses deemed automatically approved by the Board, the proposal expands opportunities for individuals seeking employment in the financial services sector. Further, they noted that by expanding the category of *de minimis* offenses, the NCUA better aligns itself with the FDIC.

Several of the commenters indicated their support for the proposed rule but suggested changes to particular provisions or asked for clarification on certain aspects of the proposal. The comments and the Board's responses are addressed in the section-by-section discussion below.

¹⁸ One comment was indecipherable and included an attachment with no relevance to the proposed rule. This submission was counted in the total number of comments received.

III. Final Rule

The Board is now rescinding IRPS 19–1 and issuing a final rule to incorporate IRPS 19–1 and the FHBA into its regulations. The final rule addresses, among other topics, the types of offenses covered by section 205(d), the effect of the completion of sentencing or pretrial-diversion program requirements in the context of section 205(d), and the NCUA's procedures for reviewing applications filed under section 205(d). The final rule also makes conforming changes and adopts amendments to § 701.14 on changes in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

Substantive comments on specific aspects of the proposed rule are discussed in detail in the following sections of the preamble. For the reasons described, the Board is adopting the proposal with some modifications.

Section-by-Section Discussion

1. Section 752.1—What is section 205(d) of the FCU Act?

This section sets out the scope of new part 752. Paragraph (a) generally describes the requirements of section 205(d). Paragraph (b) of this section clarifies that insured credit unions must make a reasonable, documented inquiry regarding an applicant's history to ensure that a person who is subject to the prohibition provision of section 205(d) is not hired or permitted to participate in the conduct of credit unions' affairs without the written consent of the NCUA.

The Board reiterates that, consistent with the NCUA's current policy, a federally insured credit union's reasonable, documented inquiry should, at a minimum, establish a screening process to obtain information about convictions and program entries from job applicants. If a federally insured credit union learns a prospective employee has a prior conviction or program entry for a *de minimis* offense, the credit union should document in its files that an application is not required because the covered offense is considered *de minimis* and meets the criteria for the exception.

Paragraph (b) provides that insured credit unions are permitted to make conditional offers of employment to prospective applicants. As per the NCUA's existing policy, an insured credit union choosing to adopt a policy to extend conditional offers of employment may establish its own procedures to make criminal record inquiries at any stage of its choosing in its hiring process, so long as applicants

¹⁵ 12 U.S.C. 1785(d)(5)(I), and 12 U.S.C. 1829(f)(9).

¹⁶ The proposed rule was published in the *Federal Register* on November 7, 2023. 88 FR 76702 (Nov. 7, 2023).

¹⁷ The NCUA is issuing a final rule to codify its policy regarding section 205(d) consent applications due to the FDIC's recent codification of its similar section 19 Statement of Policy. The NCUA believes codifying IRPS 19–1 will provide for greater transparency as to its application, provide greater certainty as to the NCUA's application process, and help both credit unions and individuals who may be affected by section 205(d) to understand its impact and potentially seek relief from its provisions.

do not commence work for or be employed by the credit union until the applicant is determined to not be prohibited under section 205(d) or receives consent from the Board.

Paragraph (c) addresses the need for a consent application and establishes the standard for an application's approval. The NCUA will evaluate a consent application to determine if a person is fit to participate in the conduct of the affairs of an insured credit union without posing a risk to its safety and soundness or impairing public confidence in that credit union. The burden is upon the applicant to establish that the application warrants approval.

The Board noted in the proposal that the FHBA uses the terms "national office" and "regional office," which are inconsistent with the NCUA's organization.¹⁹ To address those technical inconsistencies in the final rule, the Board has replaced references to the NCUA's regional offices and the Office of National Examinations and Supervision (ONES) with the term "field office" throughout. The Board has also added paragraph (d) to define the term "field office" as a Regional Office or the Office of National Examinations and Supervision, as described in 12 CFR 790.2.

Section 752.1 is otherwise adopted generally as proposed.

2. Section 752.2—Who is covered by section 205(d)?

This section identifies who is covered by section 205(d). Paragraph (a) states that IAPs, as defined by 12 U.S.C. 1786(r), are covered. Similar to IRPS 19–1, volunteer and *de facto* employees are deemed covered under section 205(d) as well. Whether other persons who are not IAPs, such as certain independent contractors, are covered depends upon their degree of influence or control over the management or affairs of an insured credit union. For example, directors and officers of affiliates, or joint ventures of an insured credit union, are covered if they participate in the conduct of affairs of the insured credit union or are able to influence or control the management or affairs of the insured credit union. Generally, those who exercise major policymaking functions of an insured credit union are covered by section 205(d).

¹⁹ See 12 CFR 790.2. The NCUA is currently composed of the Board with a Central Office; Field Offices, consisting of three Regional Offices and ONES; the Asset Management and Assistance Center; the Community Development Revolving Loan Program; and the NCUA Central Liquidity Facility.

Paragraph (b) defines the term "person" for the purposes of section 205(d) as an individual only and not a legal entity.

One commenter indicated that the principles-based definition for covered persons in § 752.2 was sufficiently clear as proposed, particularly when read in conjunction with the statutory definition of "institution-affiliated party." The commenter noted that any potential gray areas that arise can be resolved through legal opinions on a case-by-case basis.

The Board is adopting this section largely as proposed. As noted in the proposal, § 752.2 includes less detail than IRPS 19–1 regarding how the NCUA will determine whether a person participates in the conduct of the affairs of an insured credit union. The NCUA intends to publish guidance that further clarifies its intent about other persons who are not IAPs. The guidance will include language similar to IRPS 19–1.

3. Section 752.3—Which offenses qualify as "Covered Offenses" under section 205(d)?

This section addresses what constitutes a covered offense under section 205(d).²⁰ Paragraph (a) states that a conviction or program entry must have been for a criminal offense involving dishonesty or breach of trust. The paragraph defines criminal offenses involving dishonesty and breach of trust. The FHBA defines "criminal offense involving dishonesty" as "an offense under which an individual, directly or indirectly, cheats or defrauds or wrongfully takes property belonging to another in violation of a criminal statute." The FHBA further provides that the term includes an offense that Federal, state, or local law defines as dishonest or for which dishonesty is an element of the offense. However, the term does not include a misdemeanor criminal offense committed more than 1 year before the date on which an individual files a consent application, excluding any period of incarceration, or an offense involving the possession of controlled substances.

The FHBA does not define breach of trust. Under this section, breach of trust means a wrongful act, use,

misappropriation, or omission with respect to any property or fund that has been committed to a person in a fiduciary or official capacity, or the misuse of one's official or fiduciary position to engage in a wrongful act, use, misappropriation, or omission. This definition is identical to the definition in IRPS 19–1.

As discussed previously, the FHBA excludes from the scope of such offenses "an offense involving the possession of controlled substances." The Board interprets this phrase concerning controlled substances to exclude from the scope of the prohibition, at a minimum, criminal offenses involving the simple possession of controlled substances and possession with intent to distribute a controlled substance. This exclusion may also apply to other drug-related offenses depending on the statutory elements of the offenses or from court determinations that the statutory provisions of the offenses do not involve dishonesty or breach of trust, as noted in paragraph (b) of § 752.3. The Board notes that in processing other applications, such as change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition, the NCUA may still consider excluded offenses as appropriate. For example, an offense that is not covered under section 205(d) may bear on an individual's competence, experience, character, or integrity under 12 U.S.C. 1790a and 12 CFR 701.14. Potential applicants may contact their appropriate NCUA field office if they have questions about whether their offenses are covered under section 205(d).

This new regulatory language marks a shift from IRPS 19–1, which requires consent applications for certain simple misdemeanor drug possession offenses. Under IRPS 19–1, a consent application for a simple misdemeanor drug possession offense is required except if the conviction or program entry was classified as a misdemeanor at the time of conviction or program entry, the person had no other conviction or program entry described in section 205(d), and it had been 5 years since the conviction or program entry (or 30 months in the case of a person 21 years or younger at the time of the conviction or program entry), and the conviction did not involve the illegal distribution (including an intent to distribute), sale, trafficking, or manufacture of a controlled substance or other related offense.

Commenters were generally supportive of the Board's proposal concerning controlled substances. One

²⁰ The Board notes that the approach to criminal offenses mandated by the statute and rulemaking would not have an impact on other processes related to criminal convictions. For example, the NCUA may consider a more expansive scope of convictions related to controlled substances under section 212 of the Federal Credit Union Act in disapproving directors, committee members, and senior executive officers of troubled or newly chartered insured credit unions. See 12 CFR 701.14 for the NCUA's implementation of this provision, also addressed elsewhere in this final rule.

commenter wrote that credit unions in rural areas with high addiction rates have indicated that the classification of possession of an illegal substance as a *de minimis* offense would increase the pool of potential employment candidates. The same commenter noted studies have shown employment has therapeutic effects in drug addiction treatment and, in the spirit of assisting communities in reaching their fullest potential, credit unions should have the ability to offer employment opportunities to more eligible candidates, including those battling addiction. Another commenter supported the NCUA's review of its interpretation of crimes involving possession.

The Board believes that the final rule is consistent with the text and purposes of the FHBA and will align the Board's interpretation of section 205(d) as to offenses involving controlled substances more closely with other Federal banking regulators. The FHBA explicitly excludes from the category of "criminal offense involving dishonesty" "an offense involving the possession of controlled substances," not just the offense of "possession of controlled substances."²¹ The modifier "involving," in the Board's view, expands that exclusion beyond simple-possession offenses. The regulatory language, however, will continue to recognize that a drug-related offense *could* potentially involve dishonesty, breach of trust, or money laundering.²² Moreover, while section 205(d) provides statutory barriers to the employment of certain individuals due to their criminal history, insured credit unions otherwise retain the discretion, under that statute, as to which applicants they want to hire. The Board also notes that this provision does *not* affect its ability to consider drug-related offenses as they pertain to the suitability of an individual under other statutory provisions, including section 212 of the FCU Act.²³

Paragraph (b) requires that, to determine if the criminal offense is one of dishonesty or breach of trust, the NCUA will look to the statutory elements of the criminal offense or to court decisions in the relevant jurisdiction that have interpreted these statutory elements. This provision is similar to the policy under IRPS 19–1

and is unchanged from the proposed rule.

The FHBA also states that the term "criminal offense involving dishonesty" does not include "a misdemeanor criminal offense committed more than one year before the date on which an individual files a consent application, excluding any period of incarceration."²⁴ The Board interprets the term "offense committed" to mean the "last date of the underlying misconduct," based on the plain text of the statute. In instances with multiple offenses, "offense committed" means the last date of any of the underlying offenses.

Paragraph (c) includes language reflecting the FHBA's exclusion of certain older offenses from the scope of section 205(d).²⁵ The FHBA provides that individuals are not subject to a prohibition under section 205(d) if they committed a covered offense and it has been 7 years or more since the offense occurred; or if the individual was incarcerated with respect to the offense, it has been 5 years or more since the individual was released from incarceration; or the individual committed the offense when they were 21 years of age or younger, and it has been more than 30 months since the sentencing occurred.²⁶

The Board considers the phrases "offense committed"—noted previously—and "offense occurred" to be substantially similar. Accordingly, the Board interprets the term "offense occurred" to mean the "last date of the underlying misconduct." In instances with multiple offenses, "offense occurred" means the last date of any of the underlying offenses.

One commenter supported the Board's proposal, noting its interpretation of the term "offense occurred" is reasonable and logical.

Paragraph (c) contains another FHBA exception: section 205(d)'s restrictions do not apply to an offense if "the individual was incarcerated with respect to the offense and it has been 5 years or more since the individual was released from incarceration."²⁷ While the language of the statute is clear, the Board notes that there could be situations in which an individual who was incarcerated with respect to an offense would be permitted to work at an insured credit union before a similarly situated individual who was not incarcerated in connection with an

offense. This difference is due to the FHBA's use of a shorter time period for individuals who were incarcerated for an offense than for individuals who did not serve jail time.

Paragraph (c) also tracks the FHBA's language concerning offenses committed by individuals 21 years of age or younger. The FHBA states that, for individuals who committed an offense when the individual was 21 years of age or younger, section 205(d) shall not apply to the offense if it has been more than 30 months since the sentencing occurred.²⁸ The Board interprets "sentencing occurred" to mean the date on which a court imposed the sentence (as indicated by the date on the court's sentencing order), not the date on which all conditions of sentencing were completed. Moreover, paragraph (c) notes that its exclusions—which are derived from the FHBA—do not apply to the enumerated offenses described under 12 U.S.C. 1785(d)(2).

One commenter suggested that the term "sentencing occurred" should mean the date that appears on the applicable sentencing order, instead of the date the court's clerk entered the order on the docket, which often occurs days after the order is signed by the judge. The commenter pointed out that the date on the sentencing order can be easily and definitively ascertained from the court records. The Board agrees with this commenter and has modified this paragraph to add a clarifying parenthetical, as indicated previously.

Proposed paragraph (d) added parallel language reflecting the FDIC's long-held position that individuals who are convicted of, or enter into a pretrial diversion program for, a criminal offense involving dishonesty or breach of trust in foreign jurisdictions are subject to section 19, unless the offense is otherwise excluded by 12 CFR 303, subpart L, as stated in the FDIC's rule.

One commenter agreed that section 205(d) should include foreign criminal convictions and pretrial diversions for offenses in foreign jurisdictions involving dishonesty, like fraud and embezzlement, unless the conviction has been expunged, dismissed, or pardoned. Another commenter noted that, as a fidelity bond carrier, it will continue to require full disclosure of all pertinent, known facts in the bond application and renewal process, and all facts related to current or prospective employees will remain relevant to its underwriting decisions.

The Board has not previously had a position on foreign offenses; however, given the congressional mandate to

²¹ See 12 U.S.C. 1785(d)(6)(B)(iii) (emphasis added).

²² See House Rpt. No. 117–314 (May 10, 2022), available at <https://www.congress.gov/congressional-report/117th-congress/house-report/314/1>.

²³ 12 U.S.C. 1790a.

²⁴ 12 U.S.C. 1785(d)(6)(B)(iii)(I).

²⁵ See 12 U.S.C. 1785(d)(4)(A).

²⁶ Note that these exceptions do not apply to the offenses described under 12 U.S.C. 1785(d)(2).

²⁷ See 12 U.S.C. 1785(d)(4)(A)(i)(II).

²⁸ 12 U.S.C. 1785(d)(4)(A)(ii).

consult and coordinate to promote consistent implementation on consent application procedures where appropriate, the Board is adopting the FDIC's interpretation, as proposed. Employers may be unaware of an applicant's foreign offenses without conducting their own inquiry, and many countries have their own application processes to conduct criminal background checks.

The Board notes several non-exhaustive ways in which insured credit unions could comply with this requirement. For credit union operations outside the United States, the insured credit union could conduct a reasonable, documented inquiry to verify an applicant's history by inquiring about potential covered offenses that may have occurred in that foreign country (or countries) in which the credit union conducts operations, as well as the United States. As another example of such an inquiry, if an insured credit union plans to hire someone in the United States who is from a foreign country, the credit union could inquire about potential covered offenses that may have occurred in the United States and in that foreign country. And if a foreign jurisdiction forbade background investigations by an insured credit union, the credit union could note this restriction as part of its reasonable, documented inquiry.

4. Section 752.4—What constitutes a conviction under section 205(d)?

Paragraph (a) states that there must have been a conviction of record for section 205(d) to apply, and that section 205(d) does not apply to arrests, pending cases not brought to trial (unless the person has a program entry as set out in § 752.5), or any conviction reversed on appeal unless the reversal was for the purpose of re-sentencing. The Board is generally adopting paragraph (a) as proposed, with non-substantive modifications to § 752.4(a) to change the tense of the final sentence for consistency with the preceding sentence.

Paragraph (b) clarifies that, absent a program entry, when an individual is charged with a covered offense but is subsequently convicted of an offense that is not a covered offense, that conviction is not subject to section 205(d). IRPS 19–1 does not have this clarification; however, it is included in the FDIC's current part 303. The final rule clarifies that the conviction, not the originally charged offense, is relevant under section 205(d).

Paragraph (c) of this section reflects statutory language related to the treatment of orders of expungement,

sealing, or dismissal of criminal records. Under IRPS 19–1, a conviction that has been completely expunged is not considered a conviction of record and does not require a consent application. However, IRPS 19–1 further noted that where an order of expungement has been issued and is intended to be a complete expungement, the jurisdiction cannot allow the conviction or program entry to be used for any subsequent purpose including, but not limited to, an evaluation of a person's fitness or character. Also, the failure to destroy or seal the records will not prevent the expungement from being considered complete for the purposes of section 205(d).

The FHBA provides a two-pronged test to determine whether a covered offense should be considered expunged, dismissed, or sealed and therefore excluded from the scope of section 205(d). First, there must be an "order of expungement, sealing, or dismissal that has been issued in regard to the conviction in connection with such offense"; second, it must be "intended by the language in the order itself, or in the legislative provisions under which the order was issued, that the conviction shall be destroyed or sealed from the individual's state, Tribal, or Federal record, even if exceptions allow the conviction to be considered for certain character and fitness evaluation purposes."²⁹

The FHBA does not address expungements, sealings, or dismissals by operation of law, and the Board has sought to provide a more comprehensive framework as to such records. The Board proposed to add language to the second (intent) prong of the expungement framework to encompass the language in the expungement order itself, the legislative provisions under which the order was issued, *and other legislative provisions*. The Board believes that the additional language is consistent with the purposes of the statute and congressional intent to provide relief to individuals with older or minor offenses. One commenter agreed that the proposed interpretation of expungement to include those by application of law is reasonable and supported finalizing that provision as proposed.

The proposal noted that, similar to IRPS 19–1, covered offenses that have been pardoned—and which are not otherwise excluded by § 752.8—would still require a consent application.

One commenter suggested that pardons should also qualify as an expungement by operation of law. The

commenter observed that requiring a consent application for a conviction that has been pardoned seems inconsistent with congressional intent and the presidential pardon power. The commenter suggested that if a conviction has been officially nullified due to a pardon by the President or a state governor, that conviction should be nullified in all respects, including pursuant to the NCUA's regulations. The commenter asked that the Board exclude pardons from the scope of section 205(d) and suggested that pardoned offenses should be treated similarly to expungements, dismissals, or the sealing of a conviction.

The Board declines to adopt this recommendation and notes its longstanding position that covered offenses that have been pardoned, and which are not otherwise excluded from the scope of section 205(d), will still require an application. A pardon typically cancels the punishment for a criminal offense, not the underlying finding of guilt. In contrast, an expungement or sealing is significantly more likely to result, by applicable statute or court order, in the removal of the finding of guilt or otherwise result in a legal determination that the offense should not be used against an individual for employment purposes. Accordingly, in the Board's view, a person with such an expunged or sealed offense tends to present less of a risk to the credit union system than a person whose same offense has been pardoned. The Board notes, however, that while a covered offense that has been pardoned but not expunged will still require an application, in most cases the pardon would generally weigh in favor of approval.

Paragraph (d) excludes "youthful offender" judgments for minors from the scope of section 205(d). Paragraph (d) clarifies that it encompasses the term "youthful offender" and "juvenile delinquent" *and similar terms*, since a court does not have to specifically use these terms in an adjudication in order for paragraph (d)'s provisions to apply.

5. Section 752.5—What constitutes a pretrial diversion or similar program under section 205(d)?

Paragraph (a) defines what constitutes a pretrial diversion or similar program (a program entry). A pretrial diversion or similar program means a program characterized by a suspension or eventual dismissal or reversal of charges or criminal prosecution upon agreement by the accused to restitution, drug or alcohol rehabilitation, anger management, or community service. The FHBA establishes this definition.

²⁹ 12 U.S.C. 1785(d)(4)(B)(iii).

Paragraph (b) clarifies that when a covered offense either is reduced by a program entry to an offense that would otherwise not be covered by section 205(d) or is dismissed upon successful completion of a program entry, the offense remains a covered offense for purposes of section 205(d). The covered offense will require a consent application unless it is *de minimis* as provided by § 752.8. This language is new as compared to IRPS 19–1 and comes from the FDIC’s part 303.

Paragraph (c) states that expungements or sealings of program entry records will be treated the same as expungements or sealings of convictions. This language is new as compared to IRPS 19–1 and comes from the FDIC’s part 303.

No commenters objected to these provisions, which the Board generally adopts as proposed.

6. Section 752.6—What are the types of consent applications that can be filed?

The FHBA codifies procedures for consent applications filed with the NCUA. The statute removes the NCUA’s existing policy that an insured credit union sponsor a consent application or that an individual seek a waiver of the credit union filing requirement. Specifically, the proposed rule provides that the NCUA will accept applications from an individual or an insured credit union applying on behalf of an individual.

Paragraph (b) provides that an individual consent application or a credit union-sponsored consent application may be filed separately or contemporaneously with the appropriate NCUA field office.

7. Section 752.7—When may an application be filed?

This section notes that before a consent application may be filed, “all of the sentencing requirements associated with a conviction, or conditions imposed by the program entry, including but not limited to, imprisonment, fines, conditions of rehabilitation, and probation requirements must be completed, and the case must be considered final by the procedures of the applicable jurisdiction.” The Board includes this language to accord with several of the FHBA’s exclusions from section 205(d) that are not tied to the completion of sentencing requirements.

Furthermore, the FHBA requires the NCUA to “make all forms and instructions related to consent applications available to the public,

including on [its] website.”³⁰ These forms and instructions “shall provide a sample cover letter and a comprehensive list of items that may accompany the consent application, including clear guidance on evidence that may support a finding of rehabilitation.”³¹ While the final rule does not codify these requirements, the agency will comply with the statutory mandate to make appropriate forms and instructions available to the public. The final rule provides generally that the NCUA’s consent application forms as well as additional information concerning section 205(d) can be accessed on the NCUA’s website. One commenter noted that the availability of forms on the agency’s public website will be helpful.

No commenters objected to these provisions, which the Board generally adopts as proposed.

8. Section 752.8—What is the *de minimis* exemption?

The Board has made a number of changes to this section based on the statutory revisions and helpful comments received. One commenter—to the FDIC’s parallel notice of proposed rulemaking under the FHBA³²—requested that this section be revised to exempt *de minimis* offenses from the scope of the statutory prohibition, to align with the FHBA. The Board agrees, and this section has been revised in the final rule to treat *de minimis* offenses, a category that includes the sub-category “designated lesser offenses,” as offenses that are excluded from the prohibitions of section 205(d) (assuming certain conditions are met) and for which offenses no application is required. This is a substantive departure from the Board’s longstanding treatment of *de minimis* offenses, in which potential applicants with such offenses on their records did not need to file an application with the Board because the NCUA deemed their (potential) application automatically approved. In other words, the NCUA considered such offenses covered under section 205(d), while the FHBA exempts those offenses entirely from section 205(d). Accordingly, this section of the final rule includes additional language to clarify that the prohibitions of section 205(d) will not apply, and an application will therefore not be required, as to offenses meeting the conditions to qualify for the *de minimis* exemption.

³⁰ 12 U.S.C. 1785(d)(5)(E)(i).

³¹ 12 U.S.C. 1785(d)(5)(E)(ii).

³² See 88 FR 77906 (Nov. 14, 2023).

The FHBA removed the use of fake identification from the scope of section 205(d), and paragraphs (a)(1) and (b)(4) reflect this exclusion.³³

Paragraph (a)(1) states an individual who has been convicted of two or fewer covered offenses need not file if the individual could have been sentenced to a term of confinement in a correctional facility of 3 years or less and/or a fine of \$2,500 or less, and the individual actually served 3 days or less of jail time for each, provided that all of the sentencing requirements associated with the conviction have been completed, each conviction or program entry was entered at least 3 years prior to the date of a consent application (assuming there are two convictions or program entries for a covered offense), and each covered offense was not committed against an insured depository institution or insured credit union.

One commenter suggested that the maximum potential fine amount for the *de minimis* criterion in paragraph (a)(1) should be increased from \$2,500 to \$5,000, in keeping with a certain Federal criminal statute that provides for fines up to \$5,000 for certain misdemeanors or infractions. The commenter noted that under the statutory provision there are very few violations of Federal criminal laws for which the potential fine for a violation would be less than \$5,000, making many Federal offenses ineligible for *de minimis* treatment. The Board declines to expand the *de minimis* framework as suggested because it considers the current threshold appropriate. The \$2,500 amount is comparable to the \$2,000 *de minimis* threshold for insufficient-fund offenses under the FHBA.

While the Board acknowledges that offenses falling under the statute the commenter cited may require an application, two factors mitigate this concern. First, some of the offenses or infractions may not involve dishonesty or a breach of trust, which would make them irrelevant under section 205(d). Second, many of those offenses are likely to be misdemeanors, which receive significant relief under § 752.3. Thus, the Board finds the rule gives appropriate relief for minor offenses with the \$2,500 threshold.

Paragraph (a)(2) reflects the FHBA’s confinement criteria as to the Board’s determination of *de minimis* offenses.³⁴

To improve the clarity of this section, the final rule adds a sentence explaining that designated lesser offenses need not

³³ See 12 U.S.C. 1785(d)(4)(C)(iv).

³⁴ See 12 U.S.C. 1785(d)(4)(C)(ii).

meet the other criteria that apply to *de minimis* offenses.

For greater ease of reference, proposed paragraphs (a)(2)(i)–(iii) have been reorganized in the final rule. Under redesignated paragraph (a)(3), jail time is calculated based on the time an individual spent incarcerated as a punishment or a sanction—not as pretrial detention—and does not include probation or parole where an individual was restricted to a particular jurisdiction or was required to report occasionally to an individual or a specific location. Jail time includes confinement to a psychiatric treatment center in lieu of a jail, prison, or house of correction on mental competency grounds. The definition is not intended to include any of the following: persons who are restricted to a substance-abuse treatment program facility for part or all of the day; and persons who are ordered to attend outpatient psychiatric treatment.

Paragraph (a)(4), redesignated from proposed paragraph (a)(3), requires that if there are two convictions or program entries for a covered offense, each conviction or program entry must have been entered at least 3 years prior to the date a consent application would otherwise be required.

Paragraph (a)(5) (redesignated from proposed paragraph (a)(4)) requires that, in order for an offense or offenses to qualify under the general *de minimis* framework, each offense “must not have been” committed against an insured depository institution or insured credit union. This language aligns with the current FDIC regulations.

Under the proposed rule, several *de minimis* criteria had qualifiers for offenses committed against “insured” credit unions.³⁵ Two commenters noted that the proposal’s references to covered offenses committed against “insured credit unions” or “insured depository institutions” for determining whether a given offense is *de minimis* was too narrowly focused on whether an institution is insured. One commenter suggested that if an offense is committed against *any* credit union or financial institution, it should not be considered a *de minimis* offense irrespective of the institution’s insurance status. Another commenter noted that any prior offense by a covered individual committed against a financial institution, insured or not, increases risks to insured credit unions. Both commenters suggested eliminating the “insured” qualifier so that the *de minimis* exemption would not be available for offenses committed against *any* depository institution or

credit union—not just insured depository institutions and insured credit unions. After careful consideration, the Board declines to adopt this recommendation. The FHBA and its legislative history indicate lawmakers’ preference for broad relief and granting second chances. Adopting the commenters’ recommendation would provide *less* relief for individuals with minor offenses committed against non-federally insured credit unions or depository institutions. While this approach to the *de minimis* framework marks a departure from IRPS 19–1, in the Board’s view, providing greater relief for *de minimis* offenses—not less—is consistent with the FHBA and congressional intent.

Paragraph (b)(1) (age of person at time of covered offense) provides that a consent application is not required if there are two convictions or program entries for a covered offense, and the actions that resulted in both convictions or program entries all occurred when the individual was 21 years of age or younger and the convictions or program entries were entered at least 18 months prior to the date of a consent application. For a reduced waiting period to apply before an individual may qualify for the *de minimis* exemption, the underlying convictions or program entries must meet the other *de minimis* criteria in paragraph (a) of § 752.8.

The Board has revised the *de minimis* requirement related to the aggregate total face value of all “bad” or insufficient funds checks from \$1,000 to \$2,000, to conform with the statute.³⁶ Under paragraph (b)(2), a consent application is not required if an individual has convictions or program entries of record based on the writing of “bad” or insufficient funds checks and the following conditions apply: (i) the aggregate total face value of all “bad” or insufficient funds checks cited across all the convictions or program entries for “bad” or insufficient funds checks is \$2,000 or less; (ii) no depository institution or credit union was a payee on any of the “bad” or insufficient funds checks that were the basis of the convictions or program entries; and (iii) the individual has no more than one other *de minimis* offense.

The FHBA and the final rule do not require a consent application for convictions or program entries for small-dollar, simple theft. Under paragraph (b)(3), convictions or program entries based on the simple theft of goods, services, or currency (or other monetary instrument) are considered *de*

minimis offenses if the following conditions apply: (i) the value of the currency, goods, or services taken is \$1,000 or less; (ii) the theft was not committed against a depository institution or credit union; (iii) the individual has no more than one other *de minimis* offense under this section; and (iv) if there are two *de minimis* offenses under this section, each conviction or program entry was entered at least 3 years prior to the date a consent application would otherwise be required, or at least 18 months prior to the date a consent application would otherwise be required if the actions that resulted in the conviction or program entry all occurred when the individual was 21 years of age or younger. This exception excludes burglary, forgery, robbery, identity theft, and fraud.

Finally, the Board notes that the FHBA includes “designated lesser offenses” in addition to *de minimis* offenses. Designated lesser offenses, including use of fake identification, shoplifting, trespass, fare evasion, or driving with an expired license or tag, are described in the FHBA as low-risk offenses statutorily excluded from the scope of section 205(d). Redesignated paragraph (b)(4), which appeared as § 752.3(d) in the proposed rule, excludes from the scope of covered offenses “designated lesser offenses,” (for example, using fake identification), as specified in 12 U.S.C.

1785(d)(4)(C)(iv), if 1 year or more has passed since the applicable conviction or program entry. As explained in paragraph (a) in the final rule, these offenses do not need to meet the other criteria specified for *de minimis* offenses.

The Board has deleted proposed § 752.8(c) concerning fidelity bond coverage and disclosure of *de minimis* offenses to insured credit unions. This now-deleted paragraph had required that, “Any person who meets the criteria under this section shall be covered by a fidelity bond to the same extent as others in similar positions and shall disclose the presence of the conviction(s) or program entry(ies) to all insured credit unions in the affairs of which he or she intends to participate.”

One commenter expressed concern that § 752.8(c), as proposed, could be misinterpreted as imposing a mandate on fidelity bond carriers to provide coverage to individuals meeting the *de minimis* criteria. Specifically, the use of the phrase “shall be covered by a fidelity bond” could be read to imply that the burden for fidelity coverage is on bond providers to provide the required coverage, rather than on the credit union to obtain the required

³⁵ See proposed §§ 752.8(a)(4), (b)(2), (b)(3).

³⁶ See 12 U.S.C. 1785(d)(4)(C)(iii).

coverage. This commenter's concern was seemingly borne out in another comment that recommended that the same "mandate" for fidelity bond coverage for individuals meeting the *de minimis* criteria should also be extended to individuals whose consent applications have been approved. This commenter's recommendation illustrated that a misunderstanding of the phrase "shall be covered by a fidelity bond" could occur as suggested.

Additionally, one commenter responding to the FDIC's parallel notice asked for clarification concerning *de minimis* offenses and another commenter suggested that *de minimis* offenses should be treated the same way as "designated lesser offenses" by excluding both types of offenses from the scope of the statutory prohibition.

Since the FHBA has excluded *de minimis* offenses from the scope of section 205(d), the Board believes that these requirements should no longer attach to individuals who have committed such offenses and has removed this provision from the final rule. Deleting proposed § 752.8(c) also removes the ambiguity of the phrase "shall be covered by a fidelity bond." The Board emphasizes, however, that all federally insured credit union employees and officials continue to be subject to the fidelity bond and insurance coverage rules under 12 CFR 713 and must be bondable to work for or participate in the conduct of the affairs of the credit union.³⁷

Paragraph (c), redesignated from proposed paragraph (d), states that any conviction or program entry for specific criminal offenses under Title 18 set out in 12 U.S.C. 1785(d)(2) cannot qualify for a *de minimis* exemption.

9. Section 752.9—How does an individual or a credit union file an application?

This section, adopted as proposed, eliminates the credit union filing requirement and waiver process and indicates that an insured credit union may file an application on behalf of an individual. The individual may also file an application. This section also provides that applications filed by a credit union should be filed with the NCUA field office where the credit union's home office is located (or with ONES for credit unions that office supervises), and applications filed by an individual should be filed with the NCUA field office where the person

lives. States covered by each NCUA field office are listed in 12 CFR 790.2.

Along with this final rule, the Board is revising its delegations of authority related to consent applications. Formerly, the Regional Directors and the ONES Director only had delegated authority to act on credit union-sponsored applications, and the Board had retained the authority to approve or disapprove individual applications. Under the revised delegations, the Regional Directors and the ONES Director will have authority to act on both individual and credit union-sponsored applications. Any disapproval of an individual or credit union-sponsored application for consent, including a disapproval of a request for reconsideration, will require the prior concurrence of the General Counsel. Consistent with the FHBA, the General Counsel's concurrence must certify that the denial is consistent with section 205(d). Under the revised delegation, the Board will retain authority to approve or disapprove individual applications for consent involving an offense described under section 205(d)(2)(A) and such other high-level security cases it designates.

10. Section 752.10—How will the NCUA evaluate an application?

Paragraph (a) sets out the factors the NCUA will assess to determine the level of risk the applicant poses to an insured credit union and whether the NCUA will consent to the person's participation in a credit union's affairs. The paragraph reflects new statutory requirements related to the NCUA's review process, including the requirement that the NCUA primarily rely on the criminal history record of the Federal Bureau of Investigation (FBI) in its review and provide such record to the applicant to review for accuracy.³⁸ The Board interprets the term "criminal history record" to mean "identity history summary checks," which are commonly known as "rap sheets." Under paragraph (a)—and in accordance with the FHBA—the NCUA, in reviewing an application, will provide "such record" (a copy of the rap sheet) to the individual to review for accuracy.³⁹ The NCUA will not provide it to the credit union, but only to the individual who is the subject of the application. One commenter stated that the requirement to rely primarily on FBI rap sheets will help improve the consent application process.

One commenter, to the FDIC's parallel FHBA notice of proposed rulemaking,

requested that the FDIC establish a deadline to evaluate the application once received and a deadline of 5 days to return the copy of the criminal history record once received from the FBI. The FDIC has adopted this recommendation in part;⁴⁰ however, the Board declines to adopt the suggested deadlines in this final rule. While the Board remains mindful that the consent application process may impose inconveniences and uncertainties to covered individuals and credit unions as they await the agency's determination, the Board maintains it is impracticable to establish a timetable for action on applications because each application is fact specific and varies in complexity. Past applications submitted to the NCUA have generally been adjudicated within 60 days from receipt, and often the processing time was significantly less. The Board remains committed to processing consent applications as promptly as practicable. In addition, the NCUA will make reasonable efforts to communicate with the subject of the application within 15 calendar days of receipt of the criminal history record from the FBI to inform the individual that the NCUA will be providing them with a copy of the report and to verify the individual's contact information. The NCUA will also make reasonable efforts to send the report to the individual within 5 business days of successful verification of the individual's contact information. If the individual believes that there are any inaccuracies in the report, the NCUA will direct the individual to the FBI, where the individual can seek corrections.

Paragraph (b) states that the NCUA will not require an applicant to provide certified copies of criminal history records unless the NCUA determines that there is a clear and compelling justification to require additional information to verify the accuracy of the criminal history record of the FBI.

Paragraph (c) states that the determining factors in assessing an application are whether the person has demonstrated their fitness to participate in the conduct of the affairs of an

³⁷ Federally insured, state-chartered credit unions are required by 12 CFR 741.201 to comply with the fidelity bond coverage requirements of part 713. Corporate credit unions must comply with 12 CFR 704.18 in lieu of part 713.

³⁸ See 12 U.S.C. 1785(d)(5)(F).

³⁹ *Id.*

⁴⁰ Under revised 12 CFR 303.229(a)(2), the FDIC will make reasonable efforts to communicate with the subject of the application within 15 calendar days of receipt of this record from the FBI to inform the individual that the FDIC will be providing them with a copy of the report and to verify the individual's contact information. The FDIC will also make reasonable efforts to send the report to the individual within 5 business days of successful verification of the individual's contact information. If the individual believes that there are any inaccuracies in the report, the FDIC will direct the individual to an appropriate contact at the FBI, where the individual can seek corrections.

insured credit union, and whether the affiliation, or participation by the person in the conduct of the affairs of the credit union, may constitute a threat to the safety and soundness of the credit union or the interests of its members or threaten to impair public confidence in the credit union.

Paragraph (d) sets forth the considerations the NCUA will evaluate in conducting an individualized assessment. These considerations are substantively similar to factors under IRPS 19–1. The final rule also clarifies how the NCUA will evaluate evidence of rehabilitation and other evidence, as required by the FHBA.⁴¹

Paragraph (e) provides that the question of whether a person, who was convicted of a crime or who agreed to a program entry, was guilty of that crime shall not be at issue in a proceeding under this subpart or under 12 CFR part 746, subpart B.

Paragraph (f) provides that the NCUA will also apply the considerations in paragraph (d) to determine whether the interests of justice are served in seeking an exception in the appropriate court when a consent application is made prior to 10 years after the final conviction or agreement to program entry for certain Federal offenses.⁴²

Paragraph (g) provides that all approvals or orders will be subject to the condition that the person be covered by a fidelity bond to the same extent as others in similar positions. The final rule clarifies that paragraph (g) applies whether the approval is conferred by order or less formal means, such as an approval letter from a field office.

Paragraph (h) includes statutory language explaining when a new credit union-sponsored application would be necessary due to changes in the scope of an applicant's employment. It provides that when deemed appropriate by the NCUA, credit union-sponsored applications are intended to allow the individual to work for the same employer and across positions. NCUA consent will be required for any proposed significant changes in the individual's security-related duties or responsibilities, such as promotion to an officer or other positions that the employer determines will require higher security-screening credentials (that is, any position with higher level access or

responsibility, not only security personnel or individuals in the security field).

Paragraph (i) provides that when a person who has received approval under section 205(d) subsequently seeks to participate in the conduct of the affairs of another insured credit union, another application must be submitted.

11. Section 752.11—What will the NCUA do if the application is denied?

Paragraph (a) provides that the NCUA will provide a written denial that will summarize or cite the relevant factors from § 752.10. Paragraph (b) provides that the applicant (either the insured credit union or the subject individual, or both, as a consolidated request) may file a written request for reconsideration or appeal under the administrative review process contained in 12 CFR part 746, subpart B. That subpart includes uniform procedures by which petitioners may appeal initial agency determinations to the Board.

Under part 746, subpart B, prior to submitting an appeal to the Board, the petitioner may make a written request to the appropriate field office to reconsider an initial agency determination within 30 calendar days of the date of that determination. Within 60 calendar days of the date of an initial agency determination or, as applicable, a determination by the field office on any request for reconsideration, a petitioner may file an appeal seeking review of the determination by the Board. Under part 746, subpart B, a petitioner may also request an oral hearing before the Board. These procedures meet the statutory requirement for “national office review” of any consent application that is denied by a “regional office,” if the individual requests a review by the Board.⁴³ This option is also substantially similar to the FDIC's current parts 303 and 308, except that under those regulations, an oral hearing is conducted unless the applicant or the insured depository institution waives it in writing and instead makes a written submission.⁴⁴

Technical or Non-Substantive Modifications

In addition to the modifications to the proposal described above, the final rule includes a few minor, technical, or non-substantive revisions. For example, the Board has updated subject headings for clarity and for consistency with the FDIC's final rule. Several paragraphs have also been combined and redesignated for efficiency.

Additionally, some adjustments to terminology and for plain language have been adopted in the final rule, such as using “will” instead of “shall” when explaining actions the NCUA will take.

NCUA Practice on Section 205(d)

In general, the final rule mirrors the FDIC's part 303, and the FDIC's separate rulemaking to implement the FHBA, with minimal, non-substantive changes. Additionally, while there were a few differences between the FDIC's part 303 and IRPS 19–1 before the FHBA, such as some details on *de minimis* offenses, expungements, and treatment of drug-related offenses, the enactment of the FBHA resolved most differences between the two agencies' rules and created a more uniform standard. However, there are a few areas in which IRPS 19–1 provided additional context and discussion on policy and procedures related to section 205(d) compared to part 303. In general, the additional information does not provide any substantive difference from part 303 and instead provides additional clarifying information.

The Board has chosen to omit much of the clarifying information in the final rule to ensure its consistency with part 303; however, the Board also believes credit unions may generally have less experience with section 205(d) than insured depository institutions and are typically smaller in size with fewer resources, so additional guidance may help insured credit unions to discharge their responsibilities under section 205(d). One commenter was supportive of the NCUA issuing guidance to go along with the final rule and suggested that examples be given in the guidance.

Accordingly, after finalizing and implementing this rule, the NCUA intends to issue guidance that provides insured credit unions with additional information about section 205(d). The guidance will include portions of IRPS 19–1 that were not incorporated into the final rule.

For example, IRPS 19–1 provided that when the credit union learns that a prospective employee has a prior conviction or entered into a pretrial diversion program for a covered offense, the credit union should document in its files that a consent application is not required because the covered offense is considered *de minimis* and meets all of the criteria for the exception, or—if the credit union is willing to sponsor the prospective employee's consent application—submit an application requesting the Board's consent. The credit union could also extend a conditional offer of employment and notify the prospective employee that it

⁴¹ While the statute uses the terms “rehabilitation” and “mitigating” as separate categories of evidence, the terms appear to be substantially similar in the context of section 205(d) consent applications, and the use of both terms in these regulations may create confusion. Therefore, the final rule uses the term rehabilitation, not mitigating.

⁴² See 12 U.S.C. 1785(d)(2)(A).

⁴³ 12 U.S.C. 1785(d)(5)(D).

⁴⁴ 12 CFR 308.158(d).

is contingent upon a satisfactory background check to determine whether the individual is prohibited under section 205(d). The Board intends no change of position regarding these policies even though they are not included in the final rule.

IRPS 19–1 also stated that persons who will occupy clerical, maintenance, service, or purely administrative positions generally can be approved without an extensive review. A more detailed analysis, however, would be performed in the case of persons who will be able to influence or control the management or affairs of the insured credit union. The final rule does not include a similar delineation between how the NCUA intends to approve consent applications for different types of positions. However, the Board continues to believe that applications for clerical, maintenance, service, or purely administrative positions do not require the same review as applications for other positions that have access to more of the day-to-day financial operations of a credit union. The NCUA plans to address this issue in the guidance.

Other Conforming Amendments

Both the standard FCU Bylaws in appendix A of part 701 and the criteria for determining the insurability of a credit union in 12 CFR 741.3(c) reference section 205(d). In general, both sections prohibit a person who has been convicted of any criminal offense involving dishonesty or breach of trust from serving at an insured credit union, except with the written consent of the Board. The Board believes these references are incomplete because not all convictions of criminal offenses involving dishonesty or breach of trust now serve as the valid basis for a section 205(d) prohibition. Therefore, the final rule replaces the current reference to “any crime involving dishonesty or a breach of trust” to refer to the specific crimes covered under section 205(d). Referring directly to the FCU Act also automatically incorporates future statutory changes to section 205(d).

Additionally, as required by the Gramm-Leach-Bliley Act, appendix B to part 748 (Appendix B) contains guidance on creating an effective incident response plan in the event of unauthorized access to member information and the requirements of the notices distributed to the affected members.⁴⁵ Appendix B states that credit unions should also conduct background checks of employees to ensure that the credit union does not

violate 12 U.S.C. 1785(d). The final rule requires a background check in § 752.1(b), which is consistent with current expectations.⁴⁶ Therefore, the final rule amends this footnote to state that insured credit unions must also conduct background checks of employees.

Amendments to § 701.14 on Change in Official or Senior Executive Officer in Credit Unions That Are Newly Chartered or Are in Troubled Condition

In addition to the prohibition on certain individuals participating in the conduct of the affairs of a credit union included in section 205(d), the FCU Act also sets forth conditions under which certain insured credit unions must notify the NCUA in writing of any proposed changes in its board of directors, committee members, or senior executive staff (section 212).⁴⁷ The Board implements section 212 through § 701.14 of its rules.⁴⁸ Section 701.14 requires generally that insured credit unions that are newly chartered or troubled file notice with the NCUA before adding, replacing, or changing the duties of a board or committee member or a senior executive officer. The Board has not substantively amended § 701.14 since 2012 when the Board revised the definition of troubled condition.⁴⁹ The Board proposed to make minor amendments to § 701.14 to clarify when a notice is required, how the NCUA would process the notice, and what information must be included in the NCUA’s notice of disapproval to the applicant. Specifically, the Board proposed to:

- Clarify when notice is required by specifying that a credit union must provide notice when adding or replacing any member of its board of directors or committees, employing any person as a senior executive officer of the credit union, or changing the responsibilities of a board member, committee member, or a senior executive officer so that the person would assume a different position;
- Increase the amount of time for NCUA to initially review a notice after its receipt from 10 calendar to 15 calendar days;⁵⁰
- Specify that Regional Director and ONES Director communications under

§ 701.14 may be done through email; and

- Explicitly state that the notice of disapproval will identify the reason(s) for the denial.

One commenter supported the proposed amendment to clarify that a notice is required when a newly chartered or troubled credit union is adding or replacing any member of its board of directors or committees, employing any person as a senior executive officer of the credit union, or changing the responsibilities of a board member, committee member, or senior executive officer if the person is assuming a different position. The commenter stated that the amendment would provide a necessary clarification but encouraged the NCUA to ensure federally insured state-chartered credit unions remain aware of the notification requirement to their respective state supervisory authority, as currently required under § 701.14(c)(3).

The same commenter, however, was opposed to increasing the amount of time for the agency to initially review a notice for a change in official or senior executive officer from the current 10 calendar day limit to 15 calendar days under § 701.14(c)(3)(iii). While the commenter agreed it is important to conduct a thorough review of each request, the commenter felt that the current timeframe is sufficient and did not support extending the time for NCUA’s initial review because of the time sensitivity in these situations, particularly for a troubled credit union.

After careful consideration, the Board is adopting the amendment to the notification requirement as proposed. As discussed in the notice of proposed rulemaking, the 10-day notification requirement is not specified in the statute, and the NCUA has found the 10-day timeframe difficult to meet, as additional information to analyze the request may be required. The Board continues to believe that the additional 5 calendar days will not unduly delay the start or change in position of board members, committee members, or senior executive officers. In making this change, the Board emphasizes that the increase from 10 to 15 days applies only to the amount of time the NCUA has to either determine an application is complete or request additional information. The current 30-day approval timeline remains the same, unless the agency is waiting on additional requested information. An applicant can mitigate any delay by producing requested information expeditiously. The NCUA endeavors to process all applications as quickly as

⁴⁶ The Board notes that insured credit unions may extend a conditional offer of employment contingent on the completion of a background check satisfactory to the credit union to determine if the applicant is barred under section 205(d).

⁴⁷ 12 U.S.C. 1790a.

⁴⁸ 12 CFR 701.14.

⁴⁹ 77 FR 45285 (July 31, 2012).

⁵⁰ See 12 CFR 701.14(c)(3)(iii).

⁴⁵ 12 CFR 748, App. B.

possible, irrespective of whether additional information is requested.

The agency did not receive any comments on the other amendments to § 701.14 and the Board is finalizing those changes as proposed. The Board notes that other authorities bear on an individual's ability to work for or participate in the conduct of the affairs of a federally insured credit union.⁵¹

IV. Other Alternatives Considered

Comments Received by the FDIC

On November 14, 2023, the FDIC published a notice of proposed rulemaking to conform the FDIC's section 19 regulations with the FHBA⁵² and the FDIC received several comments and recommendations on its proposal. The NCUA considered these other comments as part of its statutory obligation to consult and coordinate with the FDIC to promote consistent implementation of the FHBA. Aside from the modifications described earlier in this preamble, the Board has decided not to incorporate those recommendations into the final rule.

As discussed previously, almost all of the substantive requirements incorporated into the agency's regulations stem from the FHBA's revisions to section 205(d). The Board had limited discretion in adopting alternatives to those statutory revisions. The Board considered other recommendations that were submitted by the commenters but believes that the final rule represents the most appropriate option for covered entities and individuals.

V. Regulatory Procedures

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates a new or amends existing information collection requirements.⁵³ For purposes of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The NCUA may not conduct or sponsor, and the respondent is not required to respond to, an information collection, unless it displays a valid Office of Management and Budget (OMB) control number.

The NCUA will revise its section 205(d) application form to conform with the changes to section 205(d) under the FHBA. These changes amend the

NCUA's existing information collection associated with this rule, entitled "Application Pursuant to Section 205(d) of the Federal Credit Union Act" (3133–0203). For this reason, the information-collection requirements contained in this final rule will be submitted by the NCUA to OMB for review and approval under section 3507(d) of the PRA (44 U.S.C. 3507(d)) and § 1320.11 of the OMB's implementing regulations (5 CFR part 1320). The final rule extends greater relief than what was formerly available to certain individuals with prior convictions seeking employment with an insured credit union, thereby eliminating the need to submit consent applications for certain offenses, particularly older or expunged convictions, prior misdemeanors, drug possession offenses, and other lesser offenses. The final rule should reduce the number of respondents applying for consent, but it may also increase the number of applications because of a renewed awareness of the statutory prohibition. Thus, the estimated number of respondents applying for consent remains at one. The final rule requires credit unions to make a reasonable, documented, inquiry to verify an applicant's history to ensure that a person who has a conviction or program entry covered by the provisions of section 205(d) is not hired or permitted to participate in its affairs without the written consent of the NCUA. This recordkeeping requirement is minimal.

These program changes would revise the information collection requirement currently approved OMB control number 3133–0203, as follows:

Title of Information Collection: Part 752, Application Pursuant to Section 205(d) of the Federal Credit Union Act.

Estimated Number of Respondents: 4.
Estimated Number of Responses per Respondent: 1.

Estimated Annual Frequency of Response: 1.

Estimated Hours per Response: 0.75.

Estimated Total Annual Burden Hours: 3.

Affected Public: Private Sector: Not-for-profit institutions; Individual or Household.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that when an agency issues a proposed rule or a final rule pursuant to 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**. Specifically, the RFA normally requires agencies to describe the effect of a

rulemaking on small entities by providing a regulatory impact analysis. For purposes of the RFA, the Board considers credit unions with assets less than \$100 million to be small entities.⁵⁴ A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

The Board does not believe the final rule will have a significant economic impact on a substantial number of small entities. In the period from 2019 through 2023, the NCUA received four consent applications. This averages out to one application a year. Therefore, on average, only about one small entity—at most—will be affected by the proposed rule annually.

As discussed in the **SUPPLEMENTARY INFORMATION** section, the final rule will align the NCUA's regulations with the FHBA's provisions and more closely align the NCUA's section 205(d) regulations with those of other Federal financial regulators. Most of the changes were precipitated by the FHBA—which was effective immediately upon passage—and the final rule aligns the NCUA's regulations with these elements of the FHBA; therefore, most of the associated changes in the final rule will have no direct effect on individuals or credit unions. Further, since the NCUA estimates that on average approximately one NCUA-insured institution could be affected by the final rule annually, any direct effects realized because of the final rule are likely to be small and affect a relatively small number of entities.

In light of the foregoing, the NCUA certifies that the final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles.

This final rule will apply to all insured credit unions, including federally insured, state-chartered credit unions. The Board has determined that the final amendments will not have a substantial direct effect on the states, on the connection between the national

⁵¹ See 12 U.S.C. 1786(i)(1)(A); 12 U.S.C. 5101 *et seq.*; 12 U.S.C. 5104; Public Law 116–283, codified at 31 U.S.C. 5321(g).

⁵² See 88 FR 77906.

⁵³ 44 U.S.C. 3507(d); 5 CFR part 1320.

⁵⁴ NCUA IRPS 15–1, 80 FR 57512 (Sept. 24, 2015).

government and the states, or on the distribution of power and responsibilities among the various levels of government. Further, the final rule implements a statutory amendment, and the NCUA does not have discretion in implementing the statutory changes to section 205(d). In particular, the Board does not believe that these changes will affect its existing agreements and division of supervisory responsibilities with state regulatory agencies. The Board expects to continue to coordinate with these agencies as appropriate in carrying out its responsibilities under section 205(d) and related provisions. Therefore, the Board has determined that this rule does not constitute a policy that has federalism implications for purposes of the executive order.

Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule may affect family well-being positively within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998). In particular, the NCUA has reviewed the criteria specified in section 654(c)(1) of that act, by evaluating whether this final regulatory action (1) affects the stability or safety of the family, particularly in terms of marital commitment; (2) affects the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) only financially impacts families, if at all, to the extent such impacts are justified; (6) may be carried out by state or local government or by the family; or (7) establishes a policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. Under this statute, if the agency determines the regulation may negatively affect family well-being, then the agency must provide an adequate rationale for its implementation.

The final rule implements legislative amendments that increase employment opportunities for individuals with certain older or minor criminal offenses involving dishonesty or breach of trust. These increased employment opportunities may strengthen the stability of families, help families perform their functions, and increase disposable income. These changes are not likely to affect the rights of parents in the education or nurture of their children. The changes call for Federal rather than state or local government

action because the legislation affects the Federal statute governing all federally insured credit unions. The Board also notes that it has limited discretion in whether and how to implement the legislative amendments and thus cannot substantially vary from the legislation. The Board has determined that this final rule may affect family well-being positively within the meaning of this statute.⁵⁵

Small Business Regulatory Enforcement Fairness Act—Congressional Review Act

The Congressional Review chapter of the Small Business Regulatory Enforcement Fairness Act of 1996 generally provides for congressional review of agency rules.⁵⁶ A reporting requirement is triggered in instances where the NCUA issues a final rule as defined in the Administrative Procedure Act.⁵⁷ Besides being subject to congressional oversight, an agency rule may also be subject to a delayed effective date if it is a “major rule.” The NCUA does not believe this rule is a “major rule” within the meaning of the relevant sections of the statute. As required by the statute, the NCUA will submit this final rule OMB for it to determine if this final rule is a “major rule” for purposes of the statute. The NCUA also will file appropriate reports with Congress and the U.S. Government Accountability Office so this rule may be reviewed.

List of Subjects

12 CFR Part 701

Administrative practice and procedure, Credit, Credit unions.

12 CFR Part 741

Bank deposit insurance, Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 746

Administrative practice and procedure, Claims, Credit unions, Investigations.

12 CFR Part 748

Computer technology, Confidential business information, Credit unions, Internet, Personally identifiable information, Privacy, Reporting and recordkeeping requirements, Security measures.

12 CFR Part 752

Administrative practice and procedure.

⁵⁵ Public Law 105–277, 112 Stat. 2681 (1998).

⁵⁶ 5 U.S.C. 551.

⁵⁷ *Id.*

By the NCUA Board on September 19, 2024.

Melane Conyers-Ausbrooks,
Secretary of the Board.

For the reasons discussed in the preamble, the Board amends 12 CFR chapter VII as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.*; 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. Amend § 701.14 by revising paragraphs (c)(1), (c)(3)(iii), and the second sentence in paragraph (e) to read as follows:

§ 701.14 Change in official or senior executive officer in credit unions that are newly chartered or are in troubled condition.

* * * * *

(c) * * *

(1) *Prior notice requirement.* An insured credit union must give the NCUA written notice at least 30 days before the effective date of adding or replacing any member of its board of directors or committee member, employing any person as a senior executive officer of the credit union, or changing the responsibilities of a board member, committee member, or a senior executive officer so that the person would assume a different position if:

- (i) The credit union has been chartered for less than 2 years; or
- (ii) The credit union meets the definition of troubled condition in paragraph (b)(3) or (4) of this section.

* * * * *

(3) * * *

(iii) *Processing.* Within 15 calendar days after receiving the notice, the Regional Director will inform the credit union either that the notice is complete or that additional, specified information is needed and must be submitted within 30 calendar days. If the initial notice is complete, the Regional Director will issue a written decision of approval or disapproval to the individual and the credit union within 30 calendar days of receipt of the notice. If the initial notice is not complete, the Regional Director will issue a written decision within 30 calendar days of receipt of the original notice plus the amount of time the credit union takes to provide the

requested additional information. If the additional information is not submitted within 30 calendar days of the Regional Director's request, the Regional Director may either disapprove the proposed individual or review the notice based on the information provided. If the credit union and the individual have submitted all requested information and the Regional Director has not issued a written decision within the applicable time period, the individual is approved. Regional Director communications may be done through electronic mail.

* * * * *

(e) * * * The Notice of Disapproval will identify the reason(s) for the denial and advise the parties of their rights to request reconsideration from the Regional Director and/or file an appeal with the NCUA Board in accordance with the procedures set forth in 12 CFR part 746, subpart B.

■ 3. Amend appendix A to part 701, under the heading "Official NCUA Commentary—Federal Credit Union Bylaws," under "Article V. Elections," by revising paragraph *i*.(b) to read as follows:

Appendix A to Part 701—Federal Credit Union Bylaws

* * * * *

Official NCUA Commentary—Federal Credit Union Bylaws

* * * * *

Article V. Elections

i. * * *

(b) The individual cannot have been convicted of a crime covered under section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) unless the NCUA Board has waived the prohibition for the conviction; and

* * * * *

PART 741—REQUIREMENTS OF INSURANCE

■ 4. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766(a), 1781–1790, and 1790d; 31 U.S.C. 3717.

■ 5. Amend § 741.3 by revising the second sentence of paragraph (c) to read as follows:

§ 741.3 Criteria.

* * * * *

(c) * * * No person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted of a crime covered under section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)), except with the written consent of the Board.

* * * * *

PART 746—APPEALS PROCEDURES

■ 6. The authority citation for part 746 continues to read as follows:

Authority: 12 U.S.C. 1766, 1787, and 1789.

§ 746.201 [Amended]

■ 7. Amend § 746.201, in paragraph (c), by adding "752.11(b)," between "745.201(c)," and "subpart J to part 747 of this chapter,".

PART 748—SECURITY PROGRAM, SUSPICIOUS TRANSACTIONS, CATASTROPHIC ACTS, CYBER INCIDENTS, AND BANK SECRECY ACT COMPLIANCE

■ 8. The authority citation for part 748 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1786(b)(1), 1786(q), 1789(a)(11); 15 U.S.C. 6801–6809; 31 U.S.C. 5311 and 5318.

■ 9. Amend appendix B to part 748 by revising footnote 7 to read as follows.

Appendix B to Part 748—Guidance on Response Programs for Unauthorized Access to Member Information and Member Notice

* * * * *

⁷ Credit unions must also conduct background checks of employees to ensure that the credit union does not violate 12 U.S.C. 1785(d), which prohibits a credit union from hiring an individual convicted of certain criminal offenses or who is subject to a prohibition order under 12 U.S.C. 1786(g).

* * * * *

■ 10. Add part 752 to read as follows:

PART 752—CONSENT TO SERVICE OF PERSONS CONVICTED OF, OR WHO HAVE PROGRAM ENTRIES FOR, CERTAIN CRIMINAL OFFENSES

Sec.

752.1 What is section 205(d) of the FCU Act?

752.2 Who is covered by section 205(d)?

752.3 Which offenses qualify as "Covered Offenses" under section 205(d)?

752.4 What constitutes a conviction under section 205(d)?

752.5 What constitutes a pretrial diversion or similar program under section 205(d)?

752.6 What are the types of applications that can be filed?

752.7 When may an application be filed?

752.8 What is the *de minimis* exemption?

752.9 How does an individual or a credit union file an application?

752.10 How will the NCUA evaluate an application?

752.11 What will the NCUA do if the application is denied?

Authority: 12 U.S.C. 1785(d).

§ 752.1. What is section 205(d) of the Federal Credit Union Act?

(a) This part covers applications under section 205(d) of the Federal

Credit Union Act (FCU Act), 12 U.S.C. 1785(d). The NCUA refers to such applications as "consent applications." Under section 205(d), any person who has been convicted of any criminal offense involving dishonesty or breach of trust, or has agreed to enter into a pretrial diversion or similar program (program entry) in connection with a prosecution for such offense (collectively, Covered Offenses), may not become, or continue as, an institution-affiliated party (IAP) of an insured credit union; or otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union without the prior written consent of the NCUA. Section 205(d) imposes a ten-year ban against the Board granting consent for a person convicted of certain crimes enumerated in title 18 of the United States Code (U.S.C.). In order for the Board to grant consent during the 10-year period, the Board must file a motion with, and obtain the approval of, the sentencing court.

(b) In addition, the law prohibits an insured credit union from permitting such a person to engage in any conduct or to continue any relationship prohibited by section 205(d). Insured credit unions must therefore make a reasonable, documented, inquiry to verify an applicant's history to ensure that a person who has a Covered Offense under section 205(d) is not hired or permitted to participate in its affairs without the written consent of the NCUA issued under this subpart. Insured credit unions may extend a conditional offer of employment contingent on the completion of a background check satisfactory to the credit union to determine if the applicant is prohibited under section 205(d), but the applicant may not work for, be employed by, or otherwise participate in the affairs of the insured credit union until the credit union has determined that the applicant is not prohibited under section 205(d) (including persons who have had a consent application approved).

(c) If there is a conviction or program entry covered by the prohibitions of section 205(d), an application under this subpart must be filed seeking the NCUA's consent to become, or to continue as, an IAP; or to otherwise participate, directly or indirectly, in the affairs of the insured credit union. The application must be filed, and consented to, prior to serving in any of the foregoing capacities unless such application is not required under the subsequent provisions of this subpart. The purpose of an application is to provide the applicant an opportunity to

demonstrate that, notwithstanding the prohibition, a person is fit to participate in the conduct of the affairs of an insured credit union without posing a risk to its safety and soundness or impairing public confidence in that credit union. The burden is upon the applicant to establish that the application warrants approval.

(d) The term *field office*, for purposes of this subpart, means a Regional Office or the Office of National Examinations and Supervision, as described in 12 CFR 790.2.

§ 752.2 Who is covered by section 205(d)?

(a) Persons covered by section 205(d) include IAPs, as defined by 12 U.S.C. 1786(r), and others who are participants in the conduct of the affairs of an insured credit union. Therefore, all directors, officers, and employees of an insured credit union who fall within the scope of section 205(d), including *de facto* employees, as determined by the NCUA based upon generally applicable standards of employment law, will also be subject to section 205(d). Whether other persons are covered by section 205(d) depends upon their degree of influence or control over the management or affairs of an insured credit union. For example, section 205(d) would apply to directors and officers of affiliates, subsidiaries, or joint ventures of an insured credit union if they participate in the affairs of the insured credit union or are able to influence or control the management or affairs of the insured credit union. Typically, an independent contractor does not have a relationship with the insured credit union other than the activity for which the credit union has contracted. However, an independent contractor who also influences or controls the management or affairs of the insured credit union would be covered by section 205(d).

(b) The term *person*, for purposes of section 205(d), means an individual and does not include a corporation, firm, or other business entity.

§ 752.3 Which offenses qualify as “Covered Offenses” under section 205(d)?

(a) *Categories of Covered Offenses.* The conviction or program entry must be for a criminal offense involving dishonesty or breach of trust.

(1) The term *criminal offense involving dishonesty*—

(i) Means an offense under which an individual, directly or indirectly—

(A) Cheats or defrauds; or

(B) Wrongfully takes property belonging to another in violation of a criminal statute;

(ii) Includes an offense that Federal, state, or local law defines as dishonest,

or for which dishonesty is an element of the offense; and

(iii) Does not include—

(A) A misdemeanor criminal offense committed more than 1 year before the date on which an individual files a consent application, excluding any period of incarceration; or

(B) An offense involving the possession of controlled substances. At a minimum, this exclusion applies to criminal offenses involving the simple possession of a controlled substance and possession with intent to distribute a controlled substance. This exclusion may also apply to other drug-related offenses depending on the statutory elements of the offenses or from court determinations that the statutory provisions of the offenses do not involve dishonesty or breach of trust as noted in paragraph (b) of this section. Potential applicants may contact their appropriate NCUA field office if they have questions about whether their offenses are covered under section 205(d).

(iv) The term *offense committed* in paragraph (a)(1)(iii)(A) of this section means the last date of the underlying misconduct. In instances with multiple offenses, *offense committed* means the last date of any of the underlying offenses.

(2) The term *breach of trust* means a wrongful act, use, misappropriation, or omission with respect to any property or fund that has been committed to a person in a fiduciary or official capacity, or the misuse of one's official or fiduciary position to engage in a wrongful act, use, misappropriation, or omission.

(b) *Elements of the offense.* Whether a crime involves dishonesty or breach of trust will be determined from the statutory elements of the offense itself or from court determinations that the statutory provisions of the offense involve dishonesty or breach of trust.

(c) *Certain older offenses excluded—*
(1) *Exclusions for certain older offenses.* Section 205(d) does not apply to an offense if—

(i) It has been 7 years or more since the offense occurred; or

(ii) The individual was incarcerated with respect to the offense, and it has been 5 years or more since the individual was released from incarceration.

(iii) The term *offense occurred* means the last date of the underlying misconduct. In instances with multiple Covered Offenses, *offense occurred* means the last date of any of the underlying offenses.

(2) *Offenses committed by individuals 21 years of age or younger.* For individuals who committed an offense

when they were 21 years of age or younger, section 205(d) does not apply to the offense if it has been more than 30 months since the sentencing occurred. The term *sentencing occurred* means the date on which a court imposed the sentence (as indicated by the date on the court's sentencing order), not the date on which all conditions of sentencing were completed.

(3) *Limitation.* This paragraph (c) does not apply to an offense described under 12 U.S.C. 1785(d)(2).

(d) *Foreign convictions.* Individuals who are convicted of, or enter into a pretrial diversion program for, a criminal offense involving dishonesty or breach of trust in any foreign jurisdiction are subject to section 205(d), unless the offense is otherwise excluded by this subpart.

§ 752.4 What constitutes a conviction under section 205(d)?

(a) *Convictions requiring an application.* There must be a conviction of record. Section 205(d) does not cover arrests or pending cases not brought to trial, unless the person has a program entry as set out in § 752.5. Section 205(d) does not cover acquittals or any conviction that has been reversed on appeal, unless the reversal was for the purpose of re-sentencing. A conviction with regard to which an appeal is pending requires an application. A conviction for which a pardon has been granted requires an application.

(b) *Convictions not requiring an application.* When an individual is charged with a Covered Offense and, in the absence of a program entry as set out in § 752.5, is subsequently convicted of an offense that is not a Covered Offense, the conviction is not subject to section 205(d).

(c) *Expungement, dismissal, and sealing.* A conviction is not considered a conviction of record and does not require an application if—

(1) There is an order of expungement, sealing, or dismissal that has been issued regarding the conviction in connection with such offense, or if a conviction has been otherwise expunged, sealed, or dismissed by operation of law; and

(2) It is intended by the language in the order itself, or in the legislative provisions under which the order was issued, or in other legislative provisions, that the conviction shall be destroyed or sealed from the individual's state, Tribal, or Federal record, even if exceptions allow the conviction to be considered for certain character and fitness evaluation purposes.

(d) *Youthful offenders.* An adjudication by a court against a person as a “youthful offender” (or similar term) under any youth-offender law applicable to minors as defined by state law, or any judgment as a “juvenile delinquent” (or similar term) by any court having jurisdiction over minors as defined by state law, does not require an application. Such an adjudication does not constitute a matter covered under section 205(d) and is not a conviction or program entry for determining the applicability of § 752.8.

§ 752.5 What constitutes a pretrial diversion or similar program under section 205(d)?

(a) The term “pretrial diversion or similar program” (program entry) means a program characterized by a suspension or eventual dismissal or reversal of charges or criminal prosecution upon agreement by the accused to restitution, drug or alcohol rehabilitation, anger management, or community service. Whether the outcome of a case constitutes a program entry is determined by relevant Federal, state, or local law, and, if not so designated under applicable law, then the determination of whether a disposition is a program entry will be made by the Board on a case-by-case basis.

(b) When a Covered Offense either is reduced by a program entry to an offense that would otherwise not be covered by section 205(d) or is dismissed upon successful completion of a program entry, the offense remains a Covered Offense for purposes of section 205(d). The Covered Offense will require an application unless it is *de minimis* as provided by § 752.8.

(c) Expungements, dismissals, or sealings of program entries will be treated the same as those for convictions.

§ 752.6 What are the types of applications that can be filed?

(a) The NCUA will accept applications from—

(1) An individual; or
(2) An insured credit union applying on behalf of an individual.

(b) An individual or an insured credit union may file applications at separate times. Under either approach, the application(s) must be filed with the appropriate NCUA field office, as required by this part.

§ 752.7 When may an application be filed?

Except for situations in which no application is required under section 205(d) and this subpart, an application must be filed when there is a conviction by a court of competent jurisdiction for a Covered Offense by any adult or minor

treated as an adult or when such person has a program entry regarding that offense. Before an application may be filed, all of the sentencing requirements associated with a conviction, or conditions imposed by the program entry, including but not limited to, imprisonment, fines, conditions of rehabilitation, and probation requirements, must be completed, and the case must be considered final by the procedures of the applicable jurisdiction. The NCUA’s application forms as well as additional information concerning section 205(d) can be accessed on the NCUA’s website.

§ 752.8 What is the *de minimis* exemption?

(a) *In general.* The prohibitions of section 205(d) will not apply, and an application will therefore not be required, where all of the following *de minimis* criteria are met. (Paragraph (b)(4) of this section contains separate exemption criteria from paragraphs (a) through (b)(3) of this section, and an offense that qualifies for exemption under paragraph (b)(4) is excluded from consideration in the criteria of paragraphs (a) through (b)(3).)

(1) The individual has been convicted of, or has program entries for, no more than two Covered Offenses, including those subject to paragraphs (b)(1) through (3) of this section; and for each Covered Offense, all of the sentencing requirements associated with the conviction, or conditions imposed by the program entry, have been completed (the sentence- or program-completion requirement does not apply under paragraph (b)(2) of this section).

(2) For each Covered Offense, the individual could have been sentenced to a term of confinement in a correctional facility of 3 years or less and/or a fine of \$2,500 or less, and the individual actually served 3 days or less of jail time for each Covered Offense.

(3) Jail time under paragraph (a)(2) of this section is calculated based on the time an individual spent incarcerated as a punishment or a sanction—not as pretrial detention—and does not include probation or parole where an individual was restricted to a particular jurisdiction or was required to report occasionally to an individual or a specific location. Jail time includes confinement to a psychiatric treatment center in lieu of a jail, prison, or house of correction on mental-competency grounds. The definition is not intended to include either of the following:

persons who are restricted to a substance-abuse treatment program facility for part or all of the day; or persons who are ordered to attend outpatient psychiatric treatment.

(4) If there are two convictions or program entries for a Covered Offense, each conviction or program entry was entered at least 3 years prior to the date an application would otherwise be required, except as provided in paragraph (b)(1) of this section.

(5) Each Covered Offense must not have been committed against an insured depository institution or insured credit union.

(b) *Other types of offenses for which the *de minimis* exemption applies and no application is required—*(1) *Age of person at time of Covered Offense.* If there are two convictions or program entries for a Covered Offense, and the actions that resulted in both convictions or program entries all occurred when the individual was 21 years of age or younger, then the *de minimis* criteria in paragraph (a)(4) of this section will be met if the convictions or program entries were entered at least 18 months prior to the date an application would otherwise be required. For this reduction in waiting time to apply, the convictions or program entries must meet the other *de minimis* criteria in paragraph (a) of this section.

(2) *Convictions or program entries for insufficient funds checks.* The prohibitions of section 205(d) will not apply, and an application will therefore not be required, as to convictions or program entries of record based on the writing of “bad” or insufficient funds check(s) if the following conditions apply:

(i) The aggregate total face value of all “bad” or insufficient funds check(s) cited across all the conviction(s) or program entry(ies) for “bad” or insufficient funds checks is \$2,000 or less;

(ii) No insured depository institution or insured credit union was a payee on any of the “bad” or insufficient funds checks that were the basis of the conviction(s) or program entry(ies); and

(iii) The individual has no more than one other *de minimis* offense under this section.

(3) *Convictions or program entries for small-dollar, simple theft.* The prohibitions of section 205(d) will not apply, and an application will therefore not be required, as to convictions or program entries based on the simple theft of goods, services, or currency (or other monetary instrument) if the following conditions apply:

(i) The value of the currency, goods, or services taken was \$1,000 or less;

(ii) The theft was not committed against an insured depository institution or insured credit union;

(iii) The individual has no more than one other offense that is considered exempt under this section; and

(iv) If there are two offenses—each of which, by itself, is considered exempt under this section, each conviction or program entry was entered at least 3 years prior to the date an application would otherwise be required, or at least 18 months prior to the date an application would otherwise be required if the actions that resulted in the conviction or program entry all occurred when the individual was 21 years of age or younger.

(v) Simple theft excludes burglary, forgery, robbery, identity theft, and fraud.

(4) *Convictions or program entries for using fake identification, shoplifting, trespassing, fare evasion, or driving with an expired license or tag.* The prohibitions of section 205(d) will not apply, and an application will therefore not be required, as to the following offenses, if 1 year or more has passed since the applicable conviction or program entry: using fake identification; shoplifting; trespassing; fare evasion; and driving with an expired license or tag.

(c) *Non-qualifying convictions or program entries.* No conviction or program entry for a violation of the Title 18 sections set out in 12 U.S.C. 1785(d)(2) can qualify under any of the *de minimis* exemptions set out in this section.

§ 752.9 How does an individual or a credit union file an application?

Forms and instructions can be obtained from the NCUA's website (www.ncua.gov), and the application(s) must be filed with the appropriate field office Director. An application may be filed by an individual or by an insured credit union on behalf of an individual, or by both. The appropriate field office for a credit union-sponsored application is the office covering the state where the insured credit union's home office is located, or the Office of National Examinations and Supervision. The appropriate field office for an application filed by an individual is the office covering the state where the person resides. States covered by each NCUA field office are listed in 12 CFR 790.2.

§ 752.10 How will the NCUA evaluate an application?

(a) *Criminal history records.* In reviewing an application, the NCUA will—

(1) Primarily rely on the criminal history record provided by the Federal Bureau of Investigation (rap sheet); and

(2) Provide such record to the subject of the application to review for accuracy.

(b) *Certified copies.* The NCUA will not require an applicant to provide certified copies of criminal history records unless the NCUA determines that there is a clear and compelling justification to require additional information to verify the accuracy of the criminal history record provided by the Federal Bureau of Investigation.

(c) *Ultimate determinations.* The ultimate determinations in assessing an application are whether the person has demonstrated their fitness to participate in the conduct of the affairs of an insured credit union, and whether the affiliation or participation by the person in the conduct of the affairs of the credit union may constitute a threat to the safety and soundness of the credit union or the interests of its members or threaten to impair public confidence in the credit union.

(d) *Individualized assessment.* When evaluating applications, the NCUA will conduct an individualized assessment that will consider:

(1) Whether the conviction or program entry is subject to section 205(d) and the specific nature and circumstances of the offense;

(2) Whether the participation directly or indirectly by the person in any manner in the conduct of the affairs of the insured credit union constitutes a threat to the safety and soundness of the credit union or the interests of its members or threatens to impair public confidence in the credit union;

(3) Evidence of rehabilitation including the person's age at the time of the conviction or program entry, the time that has elapsed since the conviction or program entry, and the relationship of the individual's offense to the responsibilities of the applicable position;

(4) The individual's employment history, letters of recommendation, certificates documenting participation in substance-abuse programs, successful participation in job preparation and educational programs, and other relevant evidence;

(5) The ability of management of the insured credit union to supervise and control the person's activities;

(6) The applicability of the insured credit union's fidelity bond coverage to the person; and

(7) For state-chartered, federally insured credit unions, the opinion or position of the state regulator; and

(8) Any additional factors in the specific case that appear relevant to the application or the individual.

(e) *No re-consideration of guilt.* The question of whether a person, who was convicted of a crime or who agreed to a program entry, was guilty of that crime will not be at issue in a proceeding under this part or under 12 CFR part 746, subpart B.

(f) *Factors considered for enumerated offenses.* The foregoing factors will also be applied by the NCUA to determine whether the interests of justice are served in seeking an exception in the appropriate court when an application is made to terminate the 10-year ban prior to its expiration date under 12 U.S.C. 1785(d)(2)(A) for certain Federal offenses.

(g) *Mandatory conditions of approval.* All approvals or orders will be subject to the condition that the person be covered by a fidelity bond to the same extent as others in similar positions. If the NCUA has approved an application filed by an individual and has issued a consent order, the individual must disclose the presence of the conviction(s) or program entry(ies) to all insured credit unions in the affairs of which they wish to participate.

(h) *Credit union-sponsored consent applications: work at same employer.* When deemed appropriate by the NCUA, credit union-sponsored applications are to allow the individual to work for the same employer (without restrictions on the location) and across positions, except that the prior consent of the NCUA (which may require a new application) will be required for any proposed significant changes in the individual's security-related duties or responsibilities, such as promotion to an officer or other positions that the employer determines will require higher security screening credentials.

(i) *Work at a different employer after certain approvals.* In situations in which an approval has been granted for a person to participate in the affairs of a particular insured credit union and the person subsequently seeks to participate at another insured credit union, another application must be submitted and approved by the NCUA prior to the person participating in the affairs of the other insured credit union.

§ 752.11 What will the NCUA do if the application is denied?

(a) The NCUA will inform the applicant in writing that the application has been denied and summarize or cite the relevant considerations specified in § 752.10.

(b) The denial will also notify the applicant of the right to request reconsideration from the field office, or to file an appeal with the Board, and will include a description of applicable

filing deadlines and time frames for agency responses. The field office and the Board will apply the review process contained in 12 CFR part 746, subpart B, to any request for reconsideration or appeal. For credit union-sponsored applications, either the institution or the subject individual (or both, as a consolidated request) may file a request for reconsideration or appeal. The request for review must include a statement of the underlying facts that form the basis of the request for reconsideration or appeal, a statement of the basis for the denial to which the applicant objects and the alleged error in such denial, and any other support, materials, or evidence relied upon by the applicant that were not previously provided.

[FR Doc. 2024–21887 Filed 9–27–24; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 745

[NCUA–2023–0082]

RIN 3133–AF53

Simplification of Share Insurance Rules

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is amending its regulations governing share insurance coverage. The final rule simplifies the share insurance regulations by establishing a “trust accounts” category that will provide for coverage of funds of both revocable trusts and irrevocable trusts deposited at federally insured credit unions (FICUs), provides consistent share insurance treatment for all mortgage servicing account balances held to satisfy principal and interest obligations to a lender, and increases flexibility for the NCUA to consider various records in determining share insurance coverage in liquidations. The changes also increase consistency between the FDIC’s Federal deposit insurance rules and the NCUA’s share insurance rules.

DATES: This rule is effective on December 1, 2026, except for the amendments to 12 CFR 745.2(c)(2) (instruction 5), 745.3 (instruction 7), and 745.14 (instruction 13), which are effective October 30, 2024.

FOR FURTHER INFORMATION CONTACT: Office of General Counsel: Thomas Zells and Rachel Ackmann, Senior Staff Attorneys; or Robert Leonard,

Compliance Officer at (703) 518–6540 or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314. Office of Credit Union Resources and Expansion (CURE): Paul Dibble, Consumer Access Program Officer; or Rita Woods, Director of Consumer Access at (703) 518–1150 or by mail at National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. General Background and Legal Authority
 - A. General Background
 - B. Legal Authority
- II. Simplification of Share Insurance Trust Rules
 - A. Notice of Proposed Rulemaking
 - B. Policy Objectives
 - C. Background and Need for Rulemaking
 - 1. Evolution of Insurance Coverage of Funds Held in Trust Accounts
 - 2. Current Rules for Coverage of Funds Held in Trust Accounts
 - 3. Need for Further Rulemaking
 - D. Final Rule
 - E. Examples Demonstrating Coverage Under Current and Final Rules
 - F. Discussion of Comments
- III. Amendments to Mortgage Servicing Account Rule
 - A. Policy Objectives
 - B. Background and Need for Rulemaking
 - C. Final Rule
 - D. Discussion of Comments
- IV. Recordkeeping Requirements
 - A. Policy Objectives
 - B. Background and Need for Rulemaking
 - C. Final Rule
 - D. Discussion of Comments
- V. Regulatory Procedures
 - A. Regulatory Flexibility Act
 - B. Paperwork Reduction Act
 - C. Executive Order 13132 on Federalism
 - D. Assessment of Federal Regulations and Policies on Families
 - E. Small Business Regulatory Enforcement Fairness Act (Congressional Review Act)

I. General Background and Legal Authority

A. General Background

The NCUA is an independent Federal agency that insures funds maintained in accounts of members or those otherwise eligible to maintain insured accounts (member accounts) at FICUs, protects the members who own FICUs, and charters and regulates Federal credit unions (FCUs). The NCUA protects the safety and soundness of the credit union system by identifying, monitoring, and reducing risks to the National Credit Union Share Insurance Fund (Share Insurance Fund). Backed by the full faith and credit of the United States, the Share Insurance Fund provides Federal share insurance to account holders in all FCUs and the majority of state-chartered credit unions.

B. Legal Authority

The Board has issued this final rule pursuant to its authority under the FCU Act. Under the Federal Credit Union Act (FCU Act), in the event of a FICU’s failure the NCUA is responsible for paying share insurance to any member, or to any person with funds lawfully held in a member account,¹ up to the standard maximum share insurance amount (SMSIA), which is currently set at \$250,000.² The FCU Act provides that the NCUA Board must determine the amount payable consistently with actions taken by the FDIC under its deposit insurance rules.³ The FCU Act also grants the NCUA express authority to issue regulations on the determination of the net amount of share insurance paid.⁴ The FCU Act further provides that “in determining the amount payable to any member, there shall be added together all accounts in the credit union maintained by that member for that member’s own benefit, either in the member’s own name or in the names of others.”⁵ However, the FCU Act also specifically authorizes the Board to “define, with such classifications and exceptions as it may prescribe, the extent of the share insurance coverage provided for member accounts, including member accounts in the name of a minor, in trust, or in joint tenancy.”⁶

The NCUA has implemented these requirements by issuing regulations recognizing particular categories of accounts, such as single ownership accounts, joint ownership accounts, revocable trust accounts, and irrevocable trust accounts.⁷ If an account meets the requirements for a particular category, the account is insured, up to the \$250,000 limit, separately from shares held by the member in a different account category at the same FICU. For example, provided all requirements are met, shares in the single ownership category will be separately insured from shares in the joint ownership category held by the same member at the same FICU.

The NCUA’s share insurance categories have been defined through both statute and regulation. Certain categories, such as the accounts held by

¹ See 12 U.S.C. 1752(5).

² 12 U.S.C. 1787(k)(1)(A), (k)(6).

³ 12 U.S.C. 1787(k)(1)(A).

⁴ 12 U.S.C. 1787(k)(1)(B). The FCU Act states that “[d]etermination of the net amount of share insurance . . . shall be in accordance with such regulations as the Board may prescribe.”

⁵ 12 U.S.C. 1787(k)(1)(B).

⁶ 12 U.S.C. 1787(k)(1)(C).

⁷ 12 CFR part 745.

government depositors⁸ and certain retirement accounts, including individual retirement accounts, have been expressly defined by Congress.⁹ Other categories, such as joint accounts¹⁰ and corporate accounts,¹¹ have been based on statutory interpretation; these accounts have been recognized through regulations issued in 12 CFR part 745 pursuant to the NCUA's rulemaking authority. In addition to defining the insurance categories, the share insurance regulations in part 745 provide the criteria used to determine insurance coverage for shares in each category.

Notably, the FCU Act also defines the term "member account." The NCUA insures member accounts at all FICUs.¹² Importantly, this term is not limited to those persons enumerated in the credit union's field of membership who have become members. It also includes as member accounts certain nonmembers, such as other nonmember credit unions; nonmember public units and political subdivisions; and, in the case of credit unions serving predominantly low-income members, deposits of nonmembers generally. In other words, the NCUA provides share insurance coverage to members and those otherwise eligible to maintain insured accounts at FICUs.

Finally, in addition to specific authority to draft share insurance regulations under § 1787 of the FCU Act, the NCUA also has general rulemaking authority. Under the FCU Act, the NCUA is the chartering and supervisory authority for FCUs and the Federal supervisory authority for FICUs.¹³ The FCU Act grants the NCUA a broad mandate to issue regulations governing both FCUs and FICUs. Section 120 of the FCU Act is a general grant of regulatory authority, and it authorizes the Board to prescribe rules and regulations for the administration of the FCU Act.¹⁴ Section 207 of the FCU Act is a specific grant of authority over share insurance coverage, conservatorships, and liquidations.¹⁵ Section 209 of the FCU Act is a plenary grant of regulatory authority to the NCUA to issue rules and regulations necessary or appropriate to carry out its role as share insurer for all FICUs.¹⁶ Accordingly, the FCU Act grants the Board broad rulemaking authority to

ensure the credit union industry and the Share Insurance Fund remain safe and sound.

II. Simplification of Share Insurance Trust Rules

A. Notice of Proposed Rulemaking

At its October 19, 2023, meeting, the Board issued a proposed rule to simplify the regulations governing share insurance coverage (proposed rule).¹⁷ The proposed rule primarily sought to simply share insurance coverage rules and increase consistency with changes adopted by the FDIC in January 2022. The Board's overall objective was to facilitate the prompt payment of share insurance in accordance with the FCU Act. As discussed in more detail later in this preamble, the Board is finalizing the proposed changes to the share insurance regulations as proposed.

B. Policy Objectives

The Board is amending its regulations governing share insurance coverage for funds held in member accounts at FICUs in connection with trusts.¹⁸ Like the proposed rule, the amendments of the final rule are primarily intended to do the following: (1) provide a rule for trust account coverage that is easier to understand and apply; (2) provide parity with changes the FDIC adopted in January 2022;¹⁹ and (3) facilitate the prompt payment of share insurance in accordance with the FCU Act. Accomplishing these objectives will further the NCUA's mission in other respects, as discussed in greater detail later in this preamble.

Clarifying Insurance Coverage for Trust Accounts

The share insurance trust rules have evolved over time, and they can be difficult to apply in some circumstances. The amendments are intended to clarify the insurance rules and trust-account limits for FICUs, their employees, their accountholders, and other interested parties. The amendments reduce the number of rules governing coverage for trust accounts, and they establish a straightforward calculation to determine coverage. The amendments are also intended to alleviate some of the confusion that FICUs, their employees, and their accountholders may experience with respect to insurance coverage and limits.

Under the regulations currently in effect (current rules), there are distinct and separate sets of rules applicable to shares of revocable trusts as opposed to irrevocable trusts. Each set of rules has its own criteria for coverage and methods by which coverage is calculated. Despite the NCUA's efforts to simplify the revocable trust rules in 2008, the consistently high volume of complex inquiries about trust accounts over an extended period suggests continued confusion about insurance limits.²⁰ NCUA share insurance specialists have answered over 17,000 calls with questions since the fourth quarter of 2019.²¹ The NCUA estimates that over 50 percent of these inquiries, which do not include those received through email, submitted through mycreditunion.gov, or directed to NCUA staff responsible for credit union liquidations, pertain to share insurance coverage for trust accounts (revocable or irrevocable). Additionally, comments received in response to the proposal also support the notion that there continues to be confusion regarding share insurance coverage of trust accounts.

To better clarify insurance limits, the amendments will further simplify insurance coverage of trust accounts (revocable and irrevocable) by harmonizing the coverage criteria for revocable and irrevocable trust accounts and by establishing a simplified formula for calculating coverage that would apply to these funds deposited at FICUs. The final rule uses the calculation the NCUA first adopted in 2008 for revocable trust accounts with five or fewer beneficiaries. This formula is straightforward and familiar to FICUs and their members.²² The amendments will also eliminate formulas in the current rules for revocable trust accounts with more than five beneficiaries and irrevocable trust accounts.

Parity

Adoption of the final rule will also align with changes the FDIC adopted in January 2022, which took effect on April 1, 2024.²³ As the Board stressed in the proposed rule, as well as in the 2021 final rule addressing the share insurance

⁸ See 12 U.S.C. 1787(k)(2).

⁹ See 12 U.S.C. 1787(k)(3).

¹⁰ 12 CFR 745.8.

¹¹ 12 CFR 745.6.

¹² 12 U.S.C. 1752(5).

¹³ 12 U.S.C. 1751 *et seq.*

¹⁴ 12 U.S.C. 1766(a).

¹⁵ 12 U.S.C. 1787.

¹⁶ 12 U.S.C. 1789(a)(11).

¹⁷ 88 FR 73249 (Oct. 25, 2023).

¹⁸ Trusts include informal revocable trusts (commonly referred to as payable-on-death accounts, in-trust-for accounts, or Totten trusts), formal revocable trusts, and irrevocable trusts.

¹⁹ 87 FR 4455 (Jan. 28, 2022).

²⁰ 73 FR 60616 (Oct. 14, 2008).

²¹ The NCUA's Office of Credit Union Resources and Expansion, which fields most share insurance inquiries, only began tracking calls received on October 31, 2019. The high volume of trust-related inquiries predates this tracking.

²² In 2008, the NCUA adopted an insurance calculation for revocable trusts that have five or fewer beneficiaries. Under this rule, 12 CFR 745.4(a), each trust grantor is insured up to \$250,000 per beneficiary.

²³ 87 FR 4455 (Jan. 28, 2022).

coverage of joint ownership accounts, the Board believes it is important to maintain parity, to the extent possible, between the nation's two Federal deposit and share insurance programs, which are backed by the full faith and credit of the United States.²⁴ The Board believes it is important that members of the public who use trust accounts receive the same protection whether the accounts are maintained at FICUs or other federally insured institutions. Consistency between the FDIC's Federal deposit insurance rules and the NCUA's share insurance rules promotes public confidence in the safety of funds at depository institutions regardless of whether the institution is an insured bank or insured credit union.

Prompt Payment of Share Insurance

The FCU Act requires the NCUA to pay accountholders "as soon as possible" after a FICU liquidation.²⁵ However, the insurance determination and subsequent payment for many trust accounts can be delayed when NCUA staff must review complex trust agreements and apply various rules for determining share insurance coverage. The final rule's amendments are intended to facilitate more timely share insurance determinations for trust accounts by reducing the time needed to review trust agreements and determine coverage. These amendments should promote the NCUA's ability to pay insurance proceeds to accountholders more quickly following the liquidation of a FICU, enabling accountholders to meet their financial needs and obligations.

Facilitating Liquidations

The final rule's amendments will also facilitate the liquidation of failed FICUs. The NCUA is routinely required to make share insurance determinations in connection with FICU liquidations. In many of these instances, however, share insurance coverage for certain trust accounts is based upon information that is not maintained in the FICU's account records. As a result, NCUA staff work with accountholders to obtain trust documentation following a FICU's liquidation to complete share insurance determinations. The difficulties associated with completing such a determination are exacerbated by the substantial growth in the use of formal trusts in recent decades. These amendments could reduce the time spent reviewing such information, thereby reducing potential delays in the

completion of share insurance determinations and payments.

C. Background and Need for Rulemaking

1. Evolution of Insurance Coverage of Funds Held in Trust Accounts

The NCUA first adopted regulations governing share insurance coverage in 1971.²⁶ Over the years, share insurance coverage has evolved to reflect both the NCUA's experience and changes in the credit union industry as well as statutory amendments.²⁷

While the regulations addressing irrevocable trusts have undergone minimal change, the regulations addressing revocable trusts have seen numerous changes, largely aimed at providing increased flexibility and simplifying coverage. Notably, in 2004 the NCUA amended the revocable trust rules, pointing to continued confusion about the coverage for revocable trust deposits and the need for parity with then recent FDIC amendments.²⁸ Specifically, the NCUA eliminated the defeating contingency provisions of the rules, with the result that coverage would be based on the interests of qualifying beneficiaries, irrespective of any defeating contingencies in the trust agreement.²⁹ This more closely aligned coverage for formal revocable trust accounts with payable-on-death accounts. Importantly, and of relevance to this final rule, defeating contingency provisions were not eliminated for irrevocable trusts, and these provisions remain relevant for calculating share insurance coverage under the current irrevocable trust provisions.³⁰ At the same time, the NCUA eliminated the requirement to name the beneficiaries of a formal revocable trust in the FICU's account records.³¹ The NCUA recognized a grantor may elect to change

the beneficiaries or the beneficiaries' interests at any time before the grantor's death, and requiring a FICU to maintain a current record of this information would be impractical and unnecessarily burdensome.

More recently, the NCUA's experience and adoption of similar revisions by the FDIC suggested further changes to the trust rules were necessary. In 2008, the NCUA simplified the rules in several respects.³² First, it eliminated the kinship requirement for revocable trust beneficiaries, instead allowing any natural person, charitable organization, or nonprofit to qualify for per-beneficiary coverage. Second, a simplified calculation was established if a revocable trust named five or fewer beneficiaries; in which case, coverage would be determined without regard to the allocation of interests among the beneficiaries. This simplification eliminated the need to discern and consider beneficial interests in many cases.

A different insurance calculation applied to revocable trusts with more than five beneficiaries. At that time, the SMSIA was \$100,000; thus, if more than five beneficiaries were named in a revocable trust, coverage would be the greater of: (1) \$500,000; or (2) the aggregate amount of all beneficiaries' interests in the trust(s), limited to \$100,000 per beneficiary. When the SMSIA was increased to \$250,000, a similar adjustment was made from \$100,000 to \$250,000 for the calculation of per-beneficiary coverage.

2. Current Rules for Coverage of Funds Held in Trust Accounts

The NCUA's current rules recognize two different insurance categories for funds held in connection with trusts at FICUs: (1) revocable trusts and (2) irrevocable trusts. The current rules for determining insurance coverage for shares in each of these categories are described below. Additionally, share insurance coverage is always limited to FICU members and those otherwise eligible to maintain insured accounts at the FICU. The NCUA's longstanding position has been that, for revocable trust accounts, all grantors (sometimes described as settlors) of the trust must be members of the FICU or otherwise eligible to maintain an insured account.³³ For irrevocable trust accounts, the NCUA has maintained the position that either all grantors (or settlors) or all beneficiaries of the trust

²⁶ 36 FR 2477 (Feb. 5, 1971).

²⁷ See, 71 FR 56001 (Sept. 26, 2006) (implementing statutory changes in the Federal Deposit Insurance Reform Act of 2005) and 80 FR 27109 (May 12, 2015) (implementing statutory changes in the Credit Union Share Insurance Fund Parity Act).

²⁸ 69 FR 8798 (Feb. 26, 2004).

²⁹ Prior to the changes adopted in 2004, if the interest of a qualifying beneficiary in an account established under the terms of a living trust agreement was contingent upon fulfillment of a specified condition, referred to as a defeating contingency, separate insurance was not available for that beneficial interest. Instead, the beneficial interest would be added to any individual account(s) of the grantor and insured up to the SMSIA, then \$100,000. An example of a defeating contingency is where an account owner names his son as a beneficiary but specifies in the living trust document that his son's ability to receive any share of the trust funds is dependent upon him successfully completing college.

³⁰ 12 CFR 745.2(d).

³¹ 69 FR 8798, 8799 (Feb. 26, 2004).

³² 73 FR 60616 (Oct. 14, 2008).

³³ See 12 CFR part 701, app. A. Art. III, sec. 6 ("Shares issued in a revocable trust—the settlor must be a member of this credit union in his or her own right.").

²⁴ 86 FR 11098 (Feb. 24, 2021).

²⁵ 12 U.S.C. 1787(d)(1).

must be members of the FICU or otherwise eligible to maintain an insured account.³⁴

As described in greater detail in section II.E., in the 2023 proposal, the NCUA requested commenters' feedback as to whether these positions should be revisited. This final rule will not alter these longstanding positions. However, the NCUA will be continuing to evaluate commenters' feedback and whether further changes are possible and necessary.

Revocable Trust Accounts

The revocable trust category applies to funds for which the member has evidenced an intention that the funds shall belong to one or more beneficiaries upon the member's death. This category includes funds held in connection with formal revocable trusts—that is, revocable trusts established through a written trust agreement. It also includes funds that are not subject to a formal trust agreement, where the FICU makes payment to the beneficiaries identified in the FICU's records upon the member's death, based on account titling and applicable state law. The NCUA refers to these types of accounts, including Totten trust accounts, payable-on-death accounts, and similar accounts, as “informal revocable trusts.” Funds associated with formal and informal revocable trusts are aggregated for the purposes of the share insurance rules; thus, funds that will pass from the same grantor to beneficiaries are aggregated and insured up to the SMSIA, currently \$250,000, per beneficiary, regardless of whether the transfer would be accomplished through a written revocable trust or an informal revocable trust.³⁵

Under the current revocable trust rules, beneficiaries with insurable interests are limited to natural persons, charitable organizations, and non-profit entities recognized as such under the Internal Revenue Code of 1986.³⁶ If a named beneficiary does not satisfy this requirement, funds held in trust for that beneficiary are treated as single ownership funds of the grantor and aggregated with any other single ownership accounts the grantor maintains at the same FICU.³⁷

Certain requirements also must be satisfied for an account to be insured in the revocable trust category. The required intention that the funds shall

belong to the beneficiaries upon the grantor's death must either be manifested in the “title” of the account or elsewhere in the account records of the credit union (using commonly accepted terms such as “in trust for,” “as trustee for,” “payable-on-death to,” or any acronym for these terms).³⁸ For the purposes of this requirement, a FICU's electronic account records are included. For example, a FICU's electronic account records could identify the account as a revocable trust account through coding or a similar mechanism. In addition, the beneficiaries of informal trusts (that is, payable-on-death accounts) must be named in the FICU's account records.³⁹ The requirement to name beneficiaries in the FICU's account records does not apply to formal revocable trusts; the NCUA generally obtains information on beneficiaries of such trusts from accountholders following a FICU's liquidation. If a member's funds at a liquidated FICU held in trust accounts exceed the SMSIA, a hold will be placed on the portion of such funds in excess of the SMSIA until the NCUA can fully review the member's trust agreement and related documents to verify the beneficiary rules are satisfied. Therefore, this process can result in delays to some insured accountholders' insurance determinations and full insurance payments.

The calculation of share insurance coverage for revocable trust accounts depends upon the number of unique beneficiaries named by a member accountholder. If five or fewer beneficiaries have been named, the member accountholder is insured in an amount up to the total number of named beneficiaries multiplied by the SMSIA, and the specific allocation of interests among the beneficiaries is not considered.⁴⁰ If more than five beneficiaries have been named, the member accountholder is insured up to the greater of: (1) five times the SMSIA; or (2) the total of the interests of each beneficiary, with each such interest limited to the SMSIA.⁴¹ For the purposes of this calculation, a life estate interest is valued at the SMSIA.⁴²

Where a revocable trust account is jointly owned, the interests of each

account owner are separately insured up to the SMSIA per beneficiary.⁴³ However, if the co-owners are the only beneficiaries of the trust, the account is instead insured under the NCUA's joint account rule.⁴⁴

The current revocable trust rule also contains a provision that was intended to reduce confusion and the potential for a decrease in share insurance coverage in the case of the death of a grantor. Specifically, if a revocable trust becomes irrevocable due to the death of the grantor, the trust account may continue to be insured under the revocable trust rules.⁴⁵ Absent this provision, the irrevocable trust rules would apply following the grantor's death, as the revocable trust becomes irrevocable at that time, which could result in a reduction in coverage.⁴⁶

Irrevocable Trust Accounts

Accounts maintaining funds held by an irrevocable trust that has been established either by written agreement or by statute are insured in the irrevocable trust share insurance category. Calculating coverage in this category requires a determination of whether beneficiaries' interests in the trust are contingent or non-contingent.⁴⁷ Non-contingent interests are interests that may be determined without evaluation of any contingencies, except for those covered by the present worth and life expectancy tables and the rules for their use set forth in the Internal Revenue Service (IRS) Federal Estate Tax Regulations.⁴⁸ Funds held for non-contingent trust interests are insured up to the SMSIA for each such beneficiary.⁴⁹ Funds held for contingent trust interests are aggregated and insured up to the SMSIA in total.⁵⁰

The irrevocable trust rules do not apply to funds held for a grantor's retained interest in an irrevocable trust.⁵¹ Such funds are aggregated with

³⁴ 12 CFR 745.4(f)(1).

⁴⁴ 12 CFR 745.4(f)(2).

⁴⁵ 12 CFR 745.4(h).

⁴⁶ The revocable trust rules tend to provide greater coverage than the irrevocable trust rules because contingencies are not considered for revocable trusts. In addition, where five or fewer beneficiaries are named by a revocable trust, specific allocations to beneficiaries also are not considered.

⁴⁷ 12 CFR 745.2(d) and 745.9–1.

⁴⁸ 12 CFR 745.2(d)(1). For example, a life estate interest is generally non-contingent, as it may be valued using the life expectancy tables. However, where a trustee has discretion to divert funds from one beneficiary to another to provide for the second beneficiary's medical needs, the first beneficiary's interest is contingent upon the trustee's discretion.

⁴⁹ 12 CFR 745.9–1(b).

⁵⁰ 12 CFR 745.2(d)(2).

⁵¹ See 12 CFR 745.2(d)(4) (The term “trust interest” does not include any interest retained by the settlor.).

³⁸ 12 CFR 745.4(b).

³⁹ *Id.*

⁴⁰ 12 CFR 745.4(a).

⁴¹ 12 CFR 745.4(e).

⁴² 12 CFR 745.4(g). For example, if a revocable trust provides a life estate for the member accountholder's spouse and remainder interests for six other beneficiaries, the spouse's life estate interest would be valued at the lesser of \$250,000 or the amount held in the trust for the purposes of the share insurance calculation.

³⁴ See 12 CFR part 701, app. A, Art. III, sec. 6 (“Shares issued in an irrevocable trust—either the settlor or the beneficiary must be a member of this credit union.”).

³⁵ 12 CFR 745.4(a).

³⁶ 12 CFR 745.4(c).

³⁷ 12 CFR 745.4(d).

the grantor's other single ownership funds for the purposes of applying the share insurance limit.

3. Need for Further Rulemaking

As noted, the rules governing share insurance coverage for trust accounts have been simplified and modified on several occasions. However, these rules are still frequently misunderstood and can present some implementation challenges. The trust rules can require overly detailed, time-consuming, and resource-intensive reviews of trust documentation to obtain the information necessary to calculate share insurance coverage. This information is often not found in a FICU's records and must be obtained from members after a FICU's liquidation.

Revision of the share insurance coverage rules for trust accounts will reduce the amount of information that must be provided for trust accounts, as well as the complexity of the NCUA's review. This revision should enable the NCUA to complete share insurance determinations more rapidly if a FICU with a large number of trust accounts is liquidated. Delays in the payment of share insurance can be consequential for accountholders, and the final rule will help to mitigate those delays.

Several factors contribute to the challenges of making insurance determinations for trust accounts under the current rules. First, there are two different sets of rules governing share insurance coverage for trust accounts. Understanding the coverage for a particular account requires a threshold inquiry to determine which set of rules to apply—the revocable trust rules or the irrevocable trust rules. This requires review of the trust agreement to determine the type of trust (revocable or irrevocable), and the inquiry may be complicated by innovations in state trust law that are intended to increase the flexibility and utility of trusts. In some cases, this threshold inquiry is also complicated by the provision of the revocable trust rules that allows for continued coverage under the revocable trust rules where a trust becomes irrevocable upon the grantor's death. The result of an irrevocable trust deposit being insured under the revocable trust rules has proven confusing for both accountholders and FICUs.

Second, even after determining which set of rules applies to a particular account, it may be challenging to apply the current rules. For example, the revocable trust rules include unique titling requirements and beneficiary requirements. These rules also provide for two separate calculations to determine insurance coverage,

depending in part upon whether there are five or fewer trust beneficiaries or at least six beneficiaries. In addition, for revocable trusts that provide benefits to multiple generations of potential beneficiaries, the NCUA needs to evaluate the trust agreement to determine whether a beneficiary is a primary beneficiary (immediately entitled to funds when a grantor dies), contingent beneficiary, or remainder beneficiary. Only eligible primary beneficiaries and remainder beneficiaries are considered when calculating NCUA share insurance coverage. The irrevocable trust rules may require detailed review of trust agreements to determine whether beneficiaries' interests are contingent and may also require actuarial or present value calculations. These types of requirements complicate the determination of insurance coverage for trust deposits, have proven confusing for accountholders, and extend the time needed to complete a share insurance determination and insurance payment.

Third, the complexity and variety of account holders' trust arrangements adds to the difficulty of determining share insurance coverage under the current rules. For example, trust interests are sometimes defined through numerous conditions and formulas, and a careful analysis of these provisions may be necessary to calculate share insurance coverage under the current rules. Arrangements involving multiple trusts where the same beneficiaries are named by the same grantor(s) in different trusts add to the difficulty of applying the trust rules. The NCUA believes simplification of the share insurance rules presents an opportunity to more closely align the coverage provided for different types of trust funds. For example, the current revocable trust rules generally provide for a greater amount of coverage than the irrevocable trust rules. This outcome occurs because contingent interests for irrevocable trusts are aggregated and insured up to the SMSIA rather than up to the SMSIA per beneficiary, while contingencies are not considered and therefore do not limit coverage in the same manner for revocable trusts.

Finally, as previously noted, adoption of this final rule will align with changes the FDIC adopted in January 2022, which took effect on April 1, 2024. The Board believes it is important to maintain parity between the nation's two Federal deposit and share insurance programs.⁵² It is imperative that members of the public who use trust accounts for the transfer of ownership of

assets better understand the rules governing such accounts and receive the same protection, whether the accounts are maintained at FICUs or other federally insured institutions.

D. Final Rule

The final rule adopts the proposed changes to the trust account rules as proposed. Specifically, the NCUA is amending the rules governing share insurance coverage for funds held in trust accounts at FICUs. Generally, the amendments will do the following: (1) merge the revocable and irrevocable trust categories into one category; (2) apply a simpler, common calculation method to determine insurance coverage for funds held by revocable and irrevocable trusts; and (3) eliminate certain requirements found in the current rules for revocable and irrevocable trusts.

Merger of Revocable and Irrevocable Trust Categories

As discussed above, the NCUA historically has insured revocable trust funds and irrevocable trust funds held at FICUs under two separate insurance categories. The NCUA's experience has been this bifurcation often confuses FICUs' staff and their members, as it requires a threshold inquiry to determine which set of rules to apply to a trust account. Moreover, all trust funds deposited at a FICU must be categorized before the aggregation of trust funds deposited within each category can be completed. The NCUA believes funds held in connection with revocable and irrevocable trusts are sufficiently similar, for the purposes of share insurance coverage, to warrant the merger of these two categories into one category. Under the NCUA's current rules, share insurance coverage is provided because the trustee maintains the funds for the benefit of the beneficiaries. This fact is true regardless of whether the trust is revocable or irrevocable. Merging the revocable and irrevocable trust categories will better conform share insurance coverage to the substance—rather than the legal form—of the trust arrangement. This underlying principle of the share insurance rules is particularly important in the context of trusts, as state law often provides flexibility to structure arrangements in different ways to accomplish a given purpose.⁵³

⁵³ For example, the NCUA currently aggregates funds in payable-on-death accounts and funds of written revocable trusts for the purposes of share insurance coverage, despite their separate and distinct legal mechanisms. Also, where the co-owners of a revocable trust are also that trust's sole

⁵² 12 U.S.C. 1787(k)(1)(A).

FICU members may have various reasons for selecting a particular legal arrangement, but that decision should not significantly affect share insurance coverage. Importantly, the merger of the revocable trust and irrevocable trust categories into one category for share insurance purposes will not affect the application or operation of state trust law; it will only affect the determination of share insurance coverage for these types of trust funds in the event of a FICU's liquidation.

Accordingly, the NCUA is amending § 745.4 of its regulations, which currently applies only to revocable trust accounts, to establish a new "trust accounts" category that includes both revocable and irrevocable trust funds deposited at a FICU. The final rule defines the funds that will be included in this category as follows: (1) informal revocable trust funds, such as payable-on-death accounts, in-trust-for accounts, and Totten trust accounts; (2) formal revocable trust funds, defined to mean funds held pursuant to a written revocable trust agreement under which funds pass to one or more beneficiaries upon the grantor's death; and (3) irrevocable trust funds, meaning funds held pursuant to an irrevocable trust established by written agreement or by statute.

In addition, the merger of the revocable trust and irrevocable trust categories eliminates the need for § 745.4(h) through (i) of the current revocable trust rules, which provide that the revocable trust rules may continue to apply to an account where a formal revocable trust becomes irrevocable due to the death of one or more of the trust's grantors. These provisions were intended to benefit accountholders, who sometimes were unaware that a trust owner's death could trigger a significant decrease in insurance coverage as a revocable trust becomes irrevocable.

However, in the NCUA's experience, this rule has proven complex in part because it results in some irrevocable trusts being insured per the revocable trust rules, while other irrevocable trusts are insured under the irrevocable trust rules.⁵⁴ As a result, an accountholder could know a trust was irrevocable but not know which share insurance rules to apply. The final rule will insure funds of formal and informal revocable trusts and irrevocable trusts according to a common set of rules,

eliminating the need for these provisions (§ 745.4(h) through (i)) and simplifying coverage for accountholders. Accordingly, the death of a formal revocable trust owner will not result in a decrease in share insurance coverage for the trust. Coverage for irrevocable and formal revocable trusts will fall under the same category and share insurance coverage will remain the same, even after the expiration of the six-month grace period following the death of an account owner.⁵⁵

Informal revocable trust accounts will also be insured under this same trust account category but are unlikely to result in the creation of an irrevocable trust account upon an owner or co-owner's death. As is the case under the existing share insurance regulations, when a co-owner of an informal revocable trust account dies, share insurance coverage for the deceased owner's interest in the account will cease after the expiration of the six-month grace period allowed for the death of share account owners. After the expiration of the six-month grace period, share insurance coverage will be calculated as if the deceased co-owner did not exist and the deceased co-owner's name did not remain on the account. This treatment of the account will be based on the fact that all funds in the account will be owned by one person (that is, the surviving co-owner).

Calculation of Coverage

As was proposed, the final rule uses one streamlined calculation to determine the amount of share insurance coverage for funds of both revocable and irrevocable trusts. This method is already used by the NCUA to calculate coverage for revocable trusts that have five or fewer beneficiaries, and it is an aspect of the rules that is generally well understood by FICUs and their members. The final rule will provide that a grantor's trust funds are insured in an amount up to the SMSIA (currently \$250,000) multiplied by the number of trust beneficiaries, not to exceed five beneficiaries. The NCUA will presume that, for share insurance purposes, the trust provides for equal treatment of beneficiaries such that specific allocation of the funds to the respective beneficiaries will not be

relevant, consistent with the NCUA's current treatment of revocable trusts with five or fewer beneficiaries. This will, in effect, limit coverage for a grantor's trust funds at each FICU to a total of \$1,250,000; in other words, maximum coverage will be equivalent to \$250,000 per beneficiary for up to five beneficiaries. In determining share insurance coverage, the NCUA will continue to consider only beneficiaries who are expected to receive the funds held by the trust in a member account at the FICU; the NCUA will not consider beneficiaries who are expected to receive only non-deposit assets of the trust.

The NCUA is deciding to calculate coverage in this manner, in part, based on its experience with the revocable trust rules after the modifications to these rules in 2008.⁵⁶ The NCUA has found the share insurance calculation method for revocable trusts with five or fewer beneficiaries has been the most straightforward and is easier for FICUs' staff and the public to understand. This calculation provides for insurance in an amount up to the total number of unique grantor-beneficiary trust relationships (that is, the number of grantors, multiplied by the total number of beneficiaries, multiplied by the SMSIA).⁵⁷ In addition to being simpler, this calculation has proven beneficial in liquidations, as it leads to more prompt share insurance determinations and quicker access to insured funds for accountholders. As discussed in section II.E., commenters also supported using this calculation. Accordingly, the NCUA will calculate share insurance coverage for trust accounts based on the simpler calculation currently used for revocable trusts with five or fewer beneficiaries.

The streamlined calculation that will be used to determine coverage for revocable trust funds and irrevocable trust funds includes a limit on the total amount of share insurance coverage for all of an accountholder's funds in the trust category at the same FICU. As was proposed, the final rule will provide coverage for trust funds at each FICU up to a total of \$1,250,000 per grantor; in other words, each grantor's insurance limit will be \$250,000 per beneficiary up to a maximum of five beneficiaries. The level of five beneficiaries is an important threshold in the current revocable trust rules, as it defines whether a grantor's coverage is determined using the simpler calculation of the number of

beneficiaries, the NCUA instead insures the trust's funds as joint funds, reflecting the arrangement's substance rather than its legal form.

⁵⁴ As noted above, if a revocable trust becomes irrevocable due to the death of the grantor, the account continues to be insured under the revocable trust rules. 12 CFR 745.4(h).

⁵⁵ The death of an account owner can affect share insurance coverage, often reducing the amount of coverage that applies to a family's accounts. To ensure that families dealing with the death of a family member have adequate time to review and restructure accounts if necessary, the NCUA insures a deceased owner's accounts as if he/she/they were still alive for a period of 6 months after his/her/their death. 12 CFR 745.2(e).

⁵⁶ 73 FR 60616 (Oct. 14, 2008).

⁵⁷ For example, two co-grantors that designate five beneficiaries are insured for up to \$2,500,000 ($2 \times 5 \times \$250,000$).

beneficiaries multiplied by the SMSIA or the more complex calculation involving the consideration of the amount of each beneficiary's specific interest (which applies when there are six or more beneficiaries). The current trust rules limit coverage by tying coverage to the specific interests of each beneficiary of an irrevocable trust or of each beneficiary of a revocable trust with more than five beneficiaries. The final rule's \$1,250,000 per-grantor, per-FICU limit is more straightforward and balances the objectives of simplifying the trust rules, promoting timely payment of share insurance, facilitating liquidations, ensuring consistency with the FCU Act, and limiting risk to the Share Insurance Fund. The final rule will also provide parity between the NCUA's regulations and those adopted by the FDIC in early 2022.⁵⁸

The NCUA anticipates that limiting coverage to \$1,250,000 per grantor, per FICU, for trust funds will not have a substantial effect on accountholders, as most trust accounts in past FICU liquidations have had balances well below this level. However, because the NCUA lacks sufficient information to project the exact effects of the new limit on current accountholders, the agency requested in the proposed rule that commenters provide information that might be helpful in this regard. As discussed in greater detail in section II.E., the comments received did not indicate that the limit will have a substantial effect on accountholders.

Under the final rule, to determine the level of insurance coverage that will apply to funds held in trust accounts, accountholders will still need to identify the grantors and the eligible beneficiaries of the trust. The level of coverage that applies to trust accounts will no longer be affected by the specific allocation of trust funds to each of the beneficiaries of the trust or by contingencies outlined in the trust agreement. Instead, the final rule will provide that a grantor's trust funds are insured up to a total of \$1,250,000 per grantor, or an amount up to the SMSIA multiplied by the number of eligible beneficiaries, with a limit of no more than five beneficiaries.

Aggregation

As was proposed, the final rule also provides for the aggregation of funds held in revocable and irrevocable trust accounts for the purposes of applying the share insurance limit. Under the current rules, funds held in informal revocable trust accounts and formal revocable trust accounts are aggregated

for this purpose.⁵⁹ The final rule will aggregate a grantor's informal and formal revocable trust accounts, as well as irrevocable trust accounts. For example, all informal revocable trusts, formal revocable trusts, and irrevocable trusts held for the same grantor at the same FICU will be aggregated, and the grantor's insurance limit will be determined by how many eligible and unique beneficiaries are identified among all of their trust accounts.⁶⁰ The share insurance coverage provided in the "trust accounts" category will remain separate from the coverage provided for other funds held in a different right and capacity at the same FICU.

However, some accountholders who currently maintain both revocable trust and irrevocable trust deposits at the same FICU may have funds in excess of the insurance limit when these separate categories are combined. As noted in the proposed rule, the NCUA lacks data on accountholders' trust arrangements that allow it to estimate the number of accountholders who might be affected in this manner. As such, the NCUA requested that commenters provide information that might be helpful in this regard. As discussed in greater detail in section II.E., the comments received did not indicate that the aggregate limit will have a substantial effect on accountholders. The agency does not believe this change will impact a substantial number of accountholders and is finalizing it as proposed.

Eligible Beneficiaries

Currently, the revocable trust rules provide that eligible beneficiaries include natural persons, charitable organizations, and non-profit entities recognized as such under the Internal Revenue Code of 1986,⁶¹ while the irrevocable trust rules do not establish criteria for beneficiaries. As stated in the proposed rule, the NCUA believes a single definition should be used to

determine whether an entity is an eligible beneficiary for all trust funds and proposes to use the current revocable trust rule's definition. The NCUA believes this single definition will result in a change in share insurance coverage only in very rare cases.

As was proposed, the final rule will exclude from the calculation of share insurance coverage beneficiaries who would obtain an interest in a trust only if one or more named beneficiaries are deceased (often referred to as contingent beneficiaries). This exclusion codifies existing practice to include only primary, unique beneficiaries in the share insurance calculation.⁶² This codification does not represent a substantive change in coverage. Consistent with treatment under the current trust rules, naming a chain of contingent beneficiaries that would obtain trust interests only in the event of a beneficiary's death will not increase share insurance coverage.

Finally, as in the proposed rule, the final rule will codify an interpretation of the trust rules where an informal revocable trust designates the depositor's formal trust as its beneficiary. A formal trust generally does not meet the definition of an eligible beneficiary for share insurance purposes, but the NCUA has treated such accounts as revocable trust accounts under the trust rules, insuring the account as if it were titled in the name of the formal trust.⁶³ Additionally, the Board wishes to clarify that if an irrevocable trust is named as beneficiary of an informal revocable trust account, the informal revocable trust account will also be treated as if titled in the name of that formal trust.

Retained Interests and Ineligible Beneficiaries' Interests

The current trust rules provide that, in some instances, funds corresponding to specific beneficiaries are aggregated with a grantor's single ownership deposits at the same FICU for the purposes of the share insurance calculation. These instances include a grantor's retained interest in an irrevocable trust⁶⁴ and interests of beneficiaries who do not satisfy the

⁵⁹ See 12 CFR 745.4(a) ("All funds that an owner holds in both living trust accounts and payable-on-death accounts, at the same NCUA-insured credit union and naming the same beneficiaries, are aggregated for insurance purposes and insured to the applicable coverage limits . . .").

⁶⁰ For example, if a grantor maintained both an informal revocable trust account with three beneficiaries and a formal revocable trust account with three separate and unique beneficiaries, the two accounts would be aggregated and the maximum share insurance available would be \$1.25 million (one grantor times the SMSIA times the number of unique beneficiaries, limited to five). However, if the same three people were the beneficiaries of both accounts, the maximum share insurance available would be \$750,000 (one grantor times the SMSIA times the three unique beneficiaries).

⁶¹ 12 CFR 754.4(c).

⁶² See NCUA *Your Insured Funds* at page 42 ("The beneficiaries are the people or entities entitled to an interest in the trust. Contingent or alternative trust beneficiaries are not considered to have an interest in the trust funds and other assets as long as the primary or initial beneficiaries are still living, with the exception of revocable living trusts with a life estate interest.").

⁶³ See 74 FR 55747, 55748 (Oct. 29, 2009).

⁶⁴ See 12 CFR 745.2(d)(4).

⁵⁸ 87 FR 4455 (Jan. 28, 2022).

definition of “beneficiary.”⁶⁵ This adds complexity to the share insurance calculation, as a detailed review of a trust agreement may be required to value such interests so they may be aggregated with a grantor’s other funds. To implement the streamlined calculation for funds held in trust accounts, the NCUA proposed to eliminate these provisions. Under the proposed rule, the grantor and other beneficiaries who do not satisfy the definition of “eligible beneficiary” would not be included for the purposes of the share insurance calculation.⁶⁶ Importantly, this exclusion would not in any way limit a grantor’s ability to establish such trust interests under state law. These interests simply would not factor into the calculation of share insurance coverage. The Board has decided to adopt these changes as proposed.

Future Trusts Named as Beneficiaries

Trusts often contain provisions for the establishment of one or more new trusts upon the grantor’s death. The proposed rule sought to clarify share insurance coverage in these situations. Under the proposed rule, if a trust agreement provides that trust funds will pass into one or more new trusts upon the death of the grantor (or grantors), the future trust (or trusts) would not be treated as beneficiaries for the purposes of the calculation. The future trust(s) instead would be considered mechanisms for distributing trust funds, and the natural persons or organizations that receive the trust funds through the future trusts would be considered the beneficiaries for the purposes of the share insurance calculation. The Board has decided to adopt this position as proposed. This clarification is consistent with the NCUA’s current interpretations and would not represent a substantive change in share insurance coverage.

Naming of Beneficiaries in Share Account Records

Consistent with the current revocable trust rules and the proposed rule, the final rule will continue to require the beneficiaries of an informal revocable trust to be expressly named in the account records of the FICU.⁶⁷ The NCUA does not believe this requirement imposes a burden on FICUs, as informal

revocable trusts by their nature require the FICU to be able to identify the individuals or entities to which funds would be paid upon the accountholder’s death.

Presumption of Ownership

As in the proposed rule, the final rule also states that, unless otherwise specified in a FICU’s account records, funds held in an account for a trust established by multiple grantors are presumed to be owned in equal shares. This presumption is consistent with the current revocable trust rules.⁶⁸

Funds Covered Under Other Rules

Under the proposed rule, certain trust funds that are covered by other sections of the share insurance regulations would be excluded from coverage under § 745.4. For example, employee benefit plan accounts are insured pursuant to current § 745.9–2. In addition, if the co-owners of an informal or formal revocable trust are the trust’s sole beneficiaries, funds held in connection with the trust would be treated as a joint ownership account under § 745.8. The Board has decided to adopt this as proposed. In each of the provided cases, the NCUA is not changing the current rule.

Removal of the Appendix to Part 745

As was proposed, the final rule will remove the appendix to part 745, which provides examples of share insurance coverage. As noted in the proposed rule, the NCUA plans to update its *Your Insured Funds* brochure to reflect the amendments made to part 745.⁶⁹ The Board believes the updated brochure and other updated resources available on mycreditunion.gov will provide a more consumer friendly and easier-to-update avenue for providing examples of share insurance coverage.

The final rule also removes references to the appendix in the heading of part 745 and in §§ 745.0, 745.2, and 745.13. As such, once this portion of the final rule has gone into effect, providing the appendix will no longer satisfy the notification to members/shareholders requirement in § 745.13. Instead, FICUs will have to make available either the rules in part 745 of the NCUA’s regulations or the updated *Your Insured Funds* brochure.

Conforming Changes

As discussed in the proposal, the final rule’s simplification of the calculation for insurance coverage for funds held in

trust accounts permits the elimination of current § 745.2(d) of the regulations addressing the valuation of trust interests. As discussed further below, the description of non-contingent interests in § 745.2(d)(1) and (2) is no longer relevant to trust accounts under the final rule. Additionally, § 745.2(d)(3) regarding the deemed *pro rata* contribution of settlors to a trust is replaced by new § 745.4(b)(4), which presumes equal allocation. Current § 745.2(d)(4) defining a “trust interest” is replaced by the definition of “irrevocable trust” in new § 745.4(a)(3).

Regarding non-contingent interests, as was proposed, the final rule moves the current description of a non-contingent interest in § 745.2(d)(1) to the definitions section of part 745. The new definition of “non-contingent interest” in § 745.1 remains substantively the same but will now only be relevant to evaluating participants’ non-contingent interests in shares of an employee benefit plan under § 745.9–2(a). As was proposed, the new definition of “non-contingent interest” adds language to include any present worth or life expectancy tables that the IRS may adopt that are similar to those set forth in § 20.2031–7 of the Federal Estate Tax Regulations (26 CFR 20.2031–7). This change is not substantive but is instead intended to provide flexibility if the IRS makes any changes. As part of this change, the final rule also makes non-substantive changes to § 745.1 to improve readability. The final rule also removes the reference to § 745.2 in current § 745.9–2.

Finally, the final rule redesignates current § 745.9–2 as § 745.9 to reflect the elimination of current § 745.9–1 governing irrevocable trust accounts. The reference in § 745.9–2(a) to § 745.2 is also removed to reflect the elimination of the description of a non-contingent interest in current § 745.2(d) and adoption of a definition of “non-contingent interest” in new § 745.1.

Effective Date

The effective date of the trust account changes will be delayed until December 1, 2026. This delayed effective date mirrors the timeline the FDIC used in adopting its trust account changes. It is intended to provide FICUs, accountholders, and the NCUA time to prepare for the changes in trust account share insurance coverage. FICUs will have an opportunity to review the changes in coverage, train employees, and update publications if necessary. Accountholders may review insurance coverage for their funds and adjust their share account arrangements if desired. In addition, the NCUA must update its

⁶⁵ 12 CFR 745.4(d).

⁶⁶ In the unlikely event a trust does not name any eligible beneficiaries, the NCUA would treat the funds in the trust account as funds held in a single ownership account. Such funds would be aggregated with any other single ownership funds that the grantor maintains at the same FICU and insured up to the SMSIA of \$250,000.

⁶⁷ See 12 CFR 745.4(b).

⁶⁸ See 12 CFR 745.4(f).

⁶⁹ <https://mycreditunion.gov/sites/default/static-files/insured-funds-brochure.pdf>.

share insurance estimator and share insurance coverage publications, including publications that provide guidance to FICUs and accountholders. The Board's rationale for adopting a delayed effective date as was suggested in the proposal and not providing for any continued application of the current rules to existing accounts is discussed further in section II.E.

E. Examples Demonstrating Coverage Under Current and Final Rules

To assist commenters, the NCUA is providing examples demonstrating how the final rule will apply to determine share insurance coverage for funds held in trust accounts. These examples are not intended to be all-inclusive; they merely address a few possible scenarios involving funds held in trust accounts. The NCUA expects that, for most accountholders, insurance coverage will not change under the final rule. The examples here highlight a few instances where coverage could be reduced to ensure the public is aware of them. The examples mirror those provided in the proposed rule.

In addition, all examples involve members or those otherwise entitled to maintain insured accounts at the FICU. Again, share insurance coverage is only available to FICU members and those otherwise entitled to maintain insured accounts. For revocable trust accounts, all grantors must be members of the FICU or otherwise eligible to maintain an insured account to receive share insurance coverage. In the case of an irrevocable trust account, all grantors or all beneficiaries must be members of the FICU or otherwise eligible to maintain an insured account to receive share insurance coverage. Where a revocable trust account has become irrevocable because of the death of a grantor, the deceased grantor's membership will continue to satisfy their membership requirement as long as the trust account continues to be maintained at the FICU.

Example 1: Payable-On-Death Account

Member A establishes a payable-on-death account at a FICU. Member A has designated three beneficiaries for this account—B, C, and D—who will receive the funds upon member A's death and listed all three on a form provided to the FICU. The only other share account that member A maintains at the same FICU is a share draft account with no designated beneficiaries. What is the maximum amount of share insurance coverage for member A's shares at the FICU?

Under the final rule, member A's payable-on-death account represents an informal revocable trust and would be

insured in the trust accounts category. The maximum coverage for this account would be equal to the SMSIA (currently \$250,000) multiplied by the number of grantors (in this case one because member A established the account) multiplied by the number of beneficiaries, up to a maximum of five (here three, the number of beneficiaries is less than five). Member A's payable-on-death account would be insured for up to $(\$250,000) \times (1) \times (3) = \$750,000$.

The coverage for member A's payable-on-death account is separate from the coverage provided for member A's share draft account, which would be insured in the single ownership category because she has not named any beneficiaries for that account. The single ownership share draft account would be insured up to the SMSIA, \$250,000. Member A's total insurance coverage for shares at the FICU would be $\$750,000 + \$250,000 = \$1,000,000$. Notably, this level of coverage is the same as that provided by the current share insurance rules.

Example 2: Formal Revocable Trust and Informal Revocable Trust

Members E and F jointly establish a payable-on-death account at a FICU. Members E and F have designated three beneficiaries for this account—G, H, and I—who will receive the funds after both members E and F are deceased. They list these beneficiaries on a form provided to the FICU. Members E and F also jointly establish an account titled in the name of the "E and F Living Trust" at the same FICU. Members E and F are the grantors of the living trust, a formal revocable trust that includes the same three beneficiaries, G, H, and I. The grantors, members E and F, do not maintain any other share accounts at this same FICU. What is the maximum amount of share insurance coverage for members E and F's shares?

Under the final rule, members E and F's payable-on-death account represents an informal revocable trust and would be insured in the trust accounts category. Members E and F's living trust account constitutes a formal revocable trust and would also be insured in the trust accounts category. To the extent the funds in these accounts would pass from the same grantor (E or F) to beneficiaries (G, H, and I), the funds would be aggregated for the purpose of applying the share insurance limit. As under the current rules, it would be irrelevant that the grantors' shares are divided between the payable-on-death account and the living trust account.

The maximum coverage for members E and F's shares would be equal to the SMSIA (\$250,000) multiplied by the

number of grantors (two, because members E and F are the grantors with respect to both accounts) multiplied by the number of unique beneficiaries, up to a maximum of five (here three, the number of beneficiaries, is less than five). Therefore, the coverage for E and F's trust accounts would be $(\$250,000) \times (2) \times (3) = \$1,500,000$. This level of coverage is the same as that provided by the current share insurance rules.

Example 3: Two-Owner Trust and a One-Owner Trust

Members J and K jointly establish a payable-on-death account at a FICU. Members J and K have designated three beneficiaries for this account—L, M, and N—who will receive the funds after both J and K are deceased. They list these beneficiaries on a form provided to the FICU. At the same FICU, Member J establishes a payable-on-death account and designates Member K as the beneficiary upon J's death. What is the maximum amount of coverage for members J and K's shares?

Under the final rule, both accounts would be insured under the trust account category. To the extent these shares would pass from the same grantor (J or K) to beneficiaries (such as L, M, and N), they would be aggregated for the purpose of applying the share insurance limit. For example, member K identified three beneficiaries (L, M, and N), and therefore, member K's insurance limit is $\$750,000$ (or $(1) \times (3) \times (\$250,000)$). Member K would be fully insured as long as one-half interest of the co-owned trust account was $\$750,000$ or less, which is the same level of coverage provided under current rules. In this example, member J's situation differs from member K's because J has a second trust account, but the insurance calculation remains the same. Specifically, member J has two trust accounts and identified four unique beneficiaries (L, M, N, and K); therefore, member J's insurance limit is $\$1,000,000$ (or $(1) \times (4) \times (\$250,000)$). Member J would remain fully insured as long as J's trust shares—equal to one-half of the co-owned trust account plus J's personal trust account—total no more than $\$1,000,000$. This methodology and level of coverage is the same as that provided by the current share insurance rules.

Example 4: Revocable and Irrevocable Trusts

Member O establishes a share account at a FICU titled the "O Living Trust." Member O is the grantor of this living trust, a formal revocable trust that includes three beneficiaries—P, Q, and R. The grantor, member O, also

establishes an irrevocable trust for the benefit of the same three beneficiaries. The trustee of the irrevocable trust maintains a share account at the same FICU as the living trust account, titled in the name of the irrevocable trust. Neither member O nor the trustee maintains other share accounts at the same FICU. What is the insurance coverage for these accounts?

Under the final rule, the living trust account is a formal revocable trust and would be insured in the trust accounts category. The account containing the funds from the irrevocable trust account would also be insured in the trust accounts category. To the extent these shares would pass from the same grantor (member O) to beneficiaries (P, Q, or R), they would be aggregated for the purposes of applying the share insurance limit. It would be irrelevant that the shares are divided between the living trust account and the irrevocable trust account. The maximum coverage for these shares would be equal to the SMSIA (\$250,000) multiplied by the number of grantors (one, because member O is the grantor with respect to both accounts) multiplied by the number of beneficiaries, up to a maximum of five (here three, the number of beneficiaries, is less than five). Therefore, the maximum coverage for the shares in the trust accounts would be $(\$250,000) \times (1) \times (3) = \$750,000$.

This example is one of the few instances where the final rule may provide a reduced amount of coverage as a result of the aggregation of revocable and irrevocable trust accounts, depending on the structure of the trust agreement. Under the current rules, member O would be insured for up to \$750,000 for revocable trust shares and separately insured for up to \$750,000 for irrevocable trust shares (assuming non-contingent beneficial interests), resulting in \$1,500,000 in total coverage. If that were the case, current coverage would exceed that provided by the final rule. However, the terms of irrevocable trusts sometimes lead to less coverage than expected. It is often the case that irrevocable trust accounts are only insured up to \$250,000 under the current rules due to contingencies in the trust agreement, but determining this with certainty often requires careful consideration of the trust agreement's contingency provisions. Under the current rule, if contingencies existed, current coverage would exceed that provided by the final rule, as member O would be insured up to \$1,000,000; \$750,000 for the revocable trust and \$250,000 for the irrevocable trust. In the NCUA's view,

one of the key benefits of the final rule versus the current rule will be greater clarity and predictability in share insurance coverage because whether contingencies exist will no longer be a factor that could affect share insurance.

Example 5: Many Beneficiaries Named

Member S establishes a share account at a FICU titled in the name of the "S Living Trust." This trust is a revocable trust naming seven beneficiaries—T, U, V, W, X, Y, and Z. The grantor, member S, does not maintain any other shares at the same FICU. What is the coverage for this account?

Under the final rule, the living trust is a formal revocable trust and would be insured in the trust accounts category. The maximum coverage for this account would be equal to the SMSIA (\$250,000) multiplied by the number of grantors (one, because member S is the sole grantor) multiplied by the number of beneficiaries, up to a maximum of five. Here the number of named beneficiaries (seven) exceeds the maximum (five), so insurance is calculated using the maximum (five). Coverage for the account would be $(\$250,000) \times (1) \times (5) = \$1,250,000$.

This example is another instance where the final rule may provide for less coverage than the current rule. Under the current rule, because more than five beneficiaries are named, the account is insured up to the greater of the following: (1) five times the SMSIA; or (2) the total of the interests of each beneficiary, with each such interest limited to the SMSIA. Determining coverage requires a review of the trust agreement to ascertain each beneficiary's interest. Each such insurable interest is limited to the SMSIA, and the total of all these interests is compared with \$1,250,000 (five times the SMSIA). The current rule provides coverage in the greater of these two amounts. The result would fall into a range from \$1,250,000 to \$1,750,000, depending on the precise allocation of trust interests among the beneficiaries.⁷⁰ In the NCUA's view, one of the key benefits of the final rule versus the current rule is greater clarity and predictability in share insurance coverage because a single formula is

⁷⁰ For example, if all the beneficiaries' interests were equal, coverage would be $\$250,000 \times (7 \text{ beneficiaries}) = \$1,750,000$. This amount is the maximum coverage possible under the current rule. Conversely, if a few beneficiaries had a large interest in the trust, the total of all beneficiaries' interests (limited to the SMSIA per beneficiary) could be less than \$1,250,000, in which case the current rule would provide a minimum of \$1,250,000 in coverage. Depending upon the precise allocation of interests, the amount of coverage provided would fall somewhere within this range.

used to determine maximum coverage, and this formula will not depend upon the specific allocation of funds among beneficiaries.

F. Discussion of Comments

Overview of the Comments

The NCUA received 13 comments on the proposed rule, 11 of which provided relevant substantive feedback. Comments were received from individuals, a FICU, state credit union leagues and national trade associations, a law firm, and an association of state credit union supervisors. All 11 substantive comments supported the proposed rule, with a number providing additional feedback regarding potential revisions or other matters to contemplate further. As described below, common issues commenters spoke to were parity with FDIC coverage, the merger of the trust account categories, the proposed trust calculation, and membership issues.

Parity With FDIC Coverage

Six commenters addressed the importance of parity with FDIC coverage. One deemed it crucial for maintaining consistency and fairness in the financial system. Another opined that if FDIC coverage is easier to understand or provides additional coverage, it could result in funds being moved to banks and could introduce reputational risk to the credit union system. A commenter noted that while parity is not reason enough to adopt a change, they recognized its importance, particularly because the public tends to be more familiar with the FDIC than the NCUA. As stated in both the proposed rule and this final rule, ensuring parity between the share insurance and deposit insurance regimes is an important basis for the NCUA making these changes to the trust account rules.

Effects of the Changes on Understanding of the Trust Rules

Commenters universally believed the proposed amendments would make insurance coverage for trust accounts easier to understand. One commenter said trust accounts are already more complex than individual share accounts, and the current rules increase the likelihood of misunderstanding coverage by adding complexity with different rules and calculation methods due to the type of trust, number of beneficiaries, or other factors. A national trade association said its member FICUs have reported the current system, with distinct rules for revocable and irrevocable trusts, has caused significant confusion and led to

a high volume of complex inquiries. The association believed the proposal will offer clear and straightforward guidance for FICUs, their employees, and their accountholders. One commenter emphasized that making share insurance coverage easier to understand is important because the public is generally less familiar with the NCUA than the FDIC. The commenter supported changes to enhance visibility or, at a minimum, to make it easier for a consumer to understand the similarities between FDIC and NCUA coverage.

The Board appreciates commenters' confirmation that the changes will make share insurance for trust accounts easier to understand. In the proposal, the Board also stated it believes that under the proposal accountholders generally would have the information necessary to readily calculate share insurance coverage for their trust accounts, better allowing them to understand insurance coverage for their trust accounts. However, the Board also asked if there were instances where an accountholder would not likely have the necessary information.

Two commenters cited instances where accountholders may lack the necessary information to calculate share insurance coverage under the proposal. The first cited an accountholder whose trust is not readily accessible, such as if it is old and maintained by a third party; this commenter suggested the NCUA apprise accountholders of the rule and remind them to find necessary documents. The second said complex trust structures or changes in beneficiaries could cause a lack of necessary information, particularly if the accountholder does not have immediate access to updated details. The commenter believed this could make determining the beneficiaries challenging, particularly in trusts involving multiple generations or those set up for estate planning.

The Board agrees with commenters that fact-specific circumstances related to individual accountholders' trust accounts may result in individual situations where an accountholder lacks the necessary information to readily calculate their share insurance coverage. However, the situations described, and others like them, relate to complexities in accountholders' individual trust arrangements that would be difficult or impossible to ameliorate in regulations governing share insurance. Instead, it is up to accountholders and those maintaining these trusts to ensure their understanding of them, so they can apply the share insurance regulations to them in evaluating their share insurance

coverage. The Board agrees with the commenter that requested that the NCUA apprise accountholders of the rule changes and remind them to locate necessary documents. The NCUA will be providing publicly available resources to notify accountholders of the rule changes and explain them. In doing so, the NCUA will also reiterate the importance of understanding trust arrangements and maintaining necessary trust documents.

Merger of the Trust Categories

Seven commenters specifically supported merging the revocable and irrevocable trust account categories. Commenters believed this would reduce confusion, minimize the number of questions to the NCUA, reduce regulatory burden, and improve operational processes. One national trade association said its member FICUs did not anticipate the merger would result in reduced insurance coverage in practice. However, they asked the NCUA to track any such outcomes in liquidations and suggested revisiting the rule if stakeholder input or liquidations show reduced coverage.

The Board agrees the merger of the trust categories should simplify insurance coverage of trust accounts, reduce confusion, and alleviate burden on FICUs, accountholders, and the NCUA. While the Board appreciates the suggestion to track outcomes in liquidations where the merger of the trust categories causes a reduction in insurance coverage, it declines to create a formal process for doing so. Simultaneously calculating insurance coverage under the current and new trust rules would negate many of the efficiency and simplification benefits the changes are intended to provide. While there will not be a formal mechanism for tracking such results, should the agency become aware of the trust account changes creating an unanticipated level of decreased share insurance coverage, either during evaluation of liquidations or through public input, the Board will consider whether additional changes are needed, in consultation with the FDIC.

Methodology for Calculating Trust Coverage

Six commenters specifically supported the proposed method for calculating trust account coverage. Commenters believed the more straightforward uniform method would enhance transparency, as well as FICU and member understanding; make it easier to inform members of their coverage; provide consistency with FDIC coverage; and benefit from FICUs

and members being already familiar with it. One national trade association said its member FICUs did not think the \$1,250,000-per-grantor cap was too low, as the vast majority of accounts are well below that level, but did ask the NCUA to track liquidations to ensure the cap is not too low. Additionally, one commenter suggested clarifying in the final rule that a trust with more than one grantor—such as a husband and wife—would have maximum coverage of \$1,250,000 per grantor.

The Board agrees with commenters that the calculation method should provide the described benefits. The Board also agrees the \$1,250,000-per-grantor cap is unlikely to be too low.⁷¹ However, as the commenter requested, the agency does plan to continue to track uninsured amounts in liquidations, if any, and can explore further changes should it become warranted. Finally, the Board believes the proposed rule was clear that a single grantor is eligible for a maximum of \$1,250,000 for all their trust interests. However, it reiterates that is the case here. In other words, where a husband and wife maintained one account at a FICU, a co-owned revocable trust account with five named eligible beneficiaries, the account would be eligible for up to \$1,250,000 per grantor, for a total of \$2,500,000.

Examples of Trust Account Coverage

One commenter encouraged the NCUA to maintain communications with FICUs to ensure its examples sufficiently cover ownership structures implemented by members. The Board agrees the NCUA should communicate with FICUs about this issue and the agency will do so.

Effects on Call Report Filings

One commenter was concerned that reporting of insured shares on the Call Report is inaccurate. The commenter said FICU computer systems tend not to code trust accounts correctly for reporting insured shares, causing them to go unreported as insured shares or to be missing some beneficiaries. The commenter said many FICUs do not include beneficiaries in their computer systems and only maintain that data in paper records, which excludes many beneficiaries that would be included in reporting insured shares. The commenter believed it might be more accurate to take total outstanding shares and apply a factor to compute insured

⁷¹ See Average Inheritance: How Much Are Retirees Leaving to Heirs? | Boldin (stating that the median size of a trust fund is around \$285,000), citing the U.S. Federal Reserve's Survey of Consumer Finances (SCF)," Nov. 2023.

shares. While outside the scope of this rulemaking, this concern will be evaluated by staff.

Effects on Other Types of Accounts

In the proposal, the NCUA asked if there are types of trusts not described in the proposal whose funds maintained in FICU accounts would be affected by the proposed changes. One commenter said the proposal might not fully address trusts like charitable remainder trusts or special needs trusts, noting they have unique characteristics that could affect insurance coverage. The commenter also said trusts operating under state-specific laws or provisions might have aspects not contemplated in the rule, necessitating a broader consideration.

As the commenter noted, many trusts operate under state-specific laws, which can vary. As such, the share insurance regulations could not fully accommodate each and every type of trust. With regard to special needs trusts and charitable remainder trusts, coverage will depend upon the exact details of each trust arrangement, including whether the trust names eligible beneficiaries.

Comments Addressing Other Changes to the Trust Rules

Two commenters supported the proposal to eliminate certain requirements in the current trust account rules as a pragmatic step towards reducing unnecessary regulatory burdens, leading to more efficient operations and improved customer experience. One commenter supported the proposed removal of the appendix to part 745 in favor of updates to NCUA guidance. The commenter believed this would make it easier for members to understand share insurance coverage.

Continued Application of the Current Rules to Existing Accounts or a Delayed Effective Date

In the proposal, the Board noted it prefers a delayed effective date for the trust account changes over continuing the coverage under current rules for accounts existing at the time the final rule goes into effect. This situation was referred to as “grandfathering” accounts under the current rules in the proposal. It is referred to as “legacy coverage” in this final rule. The proposal reasoned that providing both legacy coverage for existing accounts and separate coverage under the new rules for new accounts would result in significantly greater complexity for the period when two sets of rules could apply to accounts—especially in conducting liquidations. The Board’s belief was and remains that

a delayed implementation date allows stakeholders to make necessary adjustments for the new rules, without the complications of two sets of rules coexisting. In recognition that there could be instances that may not be easily restructured without adverse consequences to the accountholder, such as trusts holding share certificates or other account relationships, the proposal asked whether there are fact patterns where legacy coverage for existing accounts may be appropriate. The proposal also asked if this approach would be appropriate with respect to the proposed rule’s coverage limit of \$1,250,000 per FICU for an accountholder’s funds held in trust accounts.

Three commenters supported some form of legacy coverage for existing accounts. Two urged providing legacy coverage at current levels for existing trust accounts, such as if a member is the grantor of both a revocable and an irrevocable trust at the same FICU. One of these commenters argued that consumers with open accounts expect to maintain their current coverage, providing legacy coverage for existing accounts should not increase loss risk to the Share Insurance Fund relative to current policy, and a reduction in coverage represents a reputational risk to NCUA share insurance that could reduce public confidence in the credit union system. The other said that providing legacy coverage for existing accounts may increase complexity in liquidations but believed it may be the best solution to avoid adverse consequences to members. A third commenter said this legacy coverage may be appropriate in certain scenarios to protect members, such as in trusts with long-term investments like share certificates where restructuring could lead to financial losses, or in complex estate planning trusts requiring significant legal and administrative changes.

Four commenters supported a delayed effective date. One said that if the NCUA avoids providing legacy coverage for existing accounts, it should adopt an appropriately delayed implementation that recognizes the potential hardships and allows stakeholders to make necessary changes. Another believed that even with legacy coverage for existing accounts, a delayed implementation date would be essential for FICUs to review trust relationships and notify any negatively affected members. A third opposed providing legacy coverage for existing accounts, reasoning the intricacies involved could present challenges. The commenter also stated, “concerns arise regarding the

potential limitations of studying credit unions, as these may not fully capture the dynamics of larger credit unions, potentially leading to adverse effects on the relationships between [m]embers and credit unions.”

The Board has strongly considered the comments received and the effects the new trust account rules will have on accountholders. The Board continues to believe providing legacy coverage for existing accounts poses complications and burdens to FICUs, accountholders, and the NCUA that make such a system unworkable. The Board believes that by providing a substantially delayed effective date that is in excess of two years, FICUs and their accountholders should have enough time to make any needed changes to their accounts to ensure adequate share insurance coverage. Further, the Board remains doubtful the changes will result in reduced coverage in most instances.⁷² Providing a delay in effect for the changes that matches the one the FDIC provided to insured depository institutions and their accountholders should provide both FICUs and their accountholders with sufficient time to complete any necessary adjustments.

Membership

Several commenters addressed the membership requirements for trust accounts. One commenter advocated simplifying membership requirements to establish a more straightforward approach with the goal of redefining the criteria determining the eligibility of individuals or entities for share insurance coverage, especially in the context of trust accounts. One commenter said membership should be satisfied for trust accounts if at least one member is on the account.

One commenter expressed support for the NCUA’s efforts to simplify share insurance coverage but believed that meeting the agency’s goals of providing clarity to FICUs and members and of providing parity with the FDIC’s treatment of trust accounts required clarifying membership requirements for two types of accounts: (1) revocable trust accounts where not all settlors are members; and (2) irrevocable trust accounts where no settlors are members.

On revocable trust accounts where not all settlors are members, the commenter believed the NCUA should provide coverage to nonmember co-owners of a revocable trust account. The commenter correctly noted the NCUA’s position has long been that joint accounts where there is a right of survivorship, which do not have beneficiaries, qualify for

⁷² See footnote 71.

share insurance for interests of both depositors even where there is a nonmember co-owner; whereas a nonmember co-owner's interest in a revocable trust account, such as a payable-on-death account, is not eligible for share insurance. The commenter believed the addition of a payable-on-death beneficiary should not defeat the extension of share insurance to a nonmember co-owner. The commenter also said this position is not explicitly contained in the regulations and is only documented in the NCUA's Share Insurance Estimator FAQ, which is not legally binding. The commenter emphasized that the FDIC clearly delineates that all payable-on-death beneficiaries are treated the same for insurance purposes, and the commenter believed the divergence from FDIC regulations is contrary to the NCUA's parity goal. The commenter concluded the proposed rule provides an opportunity to provide clear instructions for calculating coverage for joint accounts with payable-on-death beneficiaries or any other revocable trust account with one or more nonmember settlors.

To clarify, the NCUA's longstanding position is that nonmembers may be joint owners of a joint account with a right of survivorship (an account with no beneficiaries) and have an insurable interest if one joint owner of the account is a member. This position is based on a specific statutory provision that allows for nonmembers to be co-owners with a member if the account is held with a right of survivorship.⁷³ In other words, the NCUA provides share insurance coverage to nonmember owners of joint accounts (an account with no beneficiaries) where there is a right of survivorship based upon a statutory exception to the normal limitation that the NCUA only provides coverage to members. This coverage for nonmember owners of joint accounts with a right of survivorship (an account with no beneficiaries) is expressly provided for in the NCUA's regulations.⁷⁴

Conversely, the NCUA has not recognized a statutory exception for providing share insurance coverage to nonmember co-owners of revocable trust accounts, which are different from joint accounts with no beneficiaries under the share insurance regulations. Unlike the coverage for nonmember joint account owners expressly provided for in the NCUA's regulations, the NCUA's regulations do not contain any provision related to nonmember co-owners of revocable trust accounts that

negates the normal limitation that share insurance coverage is provided to members. Instead, the agency's longstanding position has been that co-owned revocable trust accounts are different from joint accounts held with a right of survivorship; and as such, they require co-owners (settlers of the trust) to be members to receive insurance coverage for their interests in the revocable trust account. It is also worth noting that while parity with FDIC coverage is an important aim, the NCUA's coverage is generally limited to member accounts. Because the FDIC coverage is not so limited, instances will inevitably occur where coverage is not parallel.

In addressing irrevocable trust accounts where no settlers are members, the commenter erroneously concluded the NCUA's position as to membership requirements for irrevocable trust accounts would pose an issue under the proposal. The commenter correctly noted that under the current rules, irrevocable trust accounts can be established as long as either all settlers or all beneficiaries are members of the FICU. The commenter concluded that because the proposal would calculate coverage for irrevocable and revocable trusts in aggregate to \$1.25 million per grantor, the NCUA would not provide coverage to an account where the settlers were not members, but all beneficiaries were members. This conclusion is incorrect. While coverage would be limited to \$1.25 million in aggregate for a grantor, any interest related to an irrevocable trust where all the beneficiaries were members would still be insured based on the beneficiaries' membership status. The limitation would only be related to interests for one grantor being limited to \$1.25 million, irrespective of the grantor's lack of membership.

Other Comments

Two commenters agreed the changes should help facilitate the prompt payment of share insurance. One commenter noted that, while NCUA Board Members will often accurately say no member has ever lost one penny of funds insured by the Share Insurance Fund, members have lost funds they thought were insured due to misunderstanding the coverage rules. As noted, the Board's goal with this rulemaking is to reduce this confusion.

In response to the NCUA's request for input regarding empirical information the agency should consider to help it understand the effects of its proposed rule, a commenter provided an article detailing an empirical study of the jurisdictional competition for trust

funds. Of most relevance, the article notes the difficulty of empirically studying inter vivos (living) trusts due to various factors, including these trusts' private nature and complexity.

III. Amendments to Mortgage Servicing Account Rule

A. Policy Objectives

The NCUA's regulations governing share insurance coverage include specific rules on accounts maintained at FICUs by mortgage servicers.⁷⁵ These rules are intended to be easy to understand and apply in determining the amount of share insurance coverage for a mortgage servicer's account (MSA). The NCUA generally strives to maintain parity with FDIC's regulations in furtherance of this aim.

The NCUA proposed an amendment to its rules governing insurance coverage for accounts maintained at FICUs by mortgage servicers that consist of mortgagors' principal and interest payments. The proposed change would mirror a change made by the FDIC in early 2022 that became effective in April 2024, and which was intended to address a servicing arrangement that is not addressed in the current rules.⁷⁶ Specifically, some servicing arrangements may permit or require servicers to advance their own funds to the lenders when mortgagors are delinquent in making principal and interest payments, and servicers might commingle such advances in the MSA with principal and interest payments collected directly from mortgagors. The FDIC reasoned that the factors that motivated the FDIC to establish its current rules for MSAs, which the NCUA also adopted and are further described below, weigh in favor of treating funds advanced by a mortgage servicer to satisfy mortgagors' principal and interest obligations to the lender as if such funds were collected directly from borrowers. The FDIC also noted it seeks to avoid uncertainty concerning the extent of deposit insurance coverage for such accounts. The proposed rule noted the NCUA concurs with the importance of avoiding uncertainty regarding the extent of insurance coverage and believes that an important aspect of avoiding uncertainty is maintaining parity between the share insurance and deposit insurance regimes.

After reviewing the comments received on this proposed change, the Board has decided to finalize the change as proposed. As discussed further

⁷³ See 12 U.S.C. 1759(a).

⁷⁴ See 12 CFR 745.8(e).

⁷⁵ 12 CFR 745.3(a)(3).

⁷⁶ 87 FR 4455 (Jan. 28, 2022).

below, the Board has also decided to make this change effective 30 days after publication in the **Federal Register**.

B. Background and Need for Rulemaking

The NCUA's rules governing coverage for MSAs were last amended in 2008, which corresponded to changes made by the FDIC. More specifically, in 2008 the FDIC recognized securitization methods and vehicles for mortgages had become more complex, exacerbating the difficulty of determining the ownership of deposits consisting of principal and interest payments by mortgagors and extending the time required to make a deposit insurance determination for deposits of a mortgage servicer in the event of an insured depository institution's (IDI's) failure.⁷⁷ The FDIC expressed concern that a lengthy insurance determination could lead to continuous withdrawal of deposits of principal and interest payments from IDIs and unnecessarily reduce a funding source for such institutions. The FDIC therefore amended its rules to provide coverage to lenders based on each mortgagor's payments of principal and interest into the MSA, up to its standard maximum deposit insurance amount per mortgagor (currently \$250,000). The FDIC did not amend the rule for coverage of tax and insurance payments, which continued to be insured to each mortgagor on a pass-through basis and aggregated with any other deposits maintained by each mortgagor at the same IDI in the same right and capacity. The NCUA agreed that this treatment of principal and interest payments provided greater and fairer coverage for credit union members and decided to apply the same approach in its share insurance rules.⁷⁸

Importantly, the 2008 amendments to the rules for MSAs did not provide for the fact that servicers may be required to advance their own funds to make payments of principal and interest on behalf of delinquent borrowers to the lenders. However, in its recent rulemaking the FDIC identified that advancing their own funds is required of mortgage servicers in some instances. For example, the FDIC noted that some IDIs identified challenges to implementing certain recordkeeping requirements with respect to MSA deposit balances because of the way in which servicer advances are accounted for and administered.⁷⁹

The NCUA's current rules, which mirror the FDIC's rules that were in effect until April 1, 2024, provide coverage for principal and interest funds only to the extent "paid into the account by the mortgagors"; they do not provide coverage for funds paid into the account from other sources, such as the servicer's own operating funds, even if those funds satisfy mortgagors' principal and interest payments. As a result, advances are not provided the same level of coverage as other deposits in an MSA consisting of principal and interest payments directly from the borrower, which are insured up to the SMSIA for each borrower. Instead, the advances are aggregated and insured to the servicer as corporate funds for a total of \$250,000. In adopting changes to its rule in early 2022, the FDIC expressed concern that this inconsistent treatment of principal and interest amounts could result in financial instability during times of stress, and could further complicate the insurance determination process, a result that is inconsistent with their policy objective. As noted in the proposal, the NCUA shares these concerns and believes it is important that parity is maintained between the insurance regimes.

C. Final Rule

The NCUA is finalizing the rule as proposed with no changes. The final rule will amend the rules governing coverage for funds in MSAs to provide parity with the FDIC's regulation and provide consistent share insurance treatment for all MSA balances held to satisfy principal and interest obligations to a lender, regardless of whether those funds are paid into the account by borrowers or paid into the account by another party (such as the servicer) to satisfy a periodic obligation to remit principal and interest due to the lender. Under the final rule, accounts maintained by a mortgage servicer in an agency, custodial, or fiduciary capacity, which consist of payments of principal and interest, will be insured for the cumulative balance paid into the account to satisfy principal and interest obligations to the lender, whether paid directly by the borrower or by another party, up to the limit of the SMSIA per mortgagor. Mortgage servicers' advances of principal and interest funds on behalf of delinquent borrowers will therefore be insured up to the SMSIA per mortgagor, consistent with the coverage rules for payments of principal and

interest collected directly from borrowers.

The composition of an MSA attributable to principal and interest payments will also include collections by a servicer, such as foreclosure proceeds, that are used to satisfy a borrower's principal and interest obligation to the lender. In some cases, foreclosure proceeds may not be paid directly by a mortgagor. The current rule does not address whether foreclosure collections represent payments of principal and interest by a mortgagor. Under the final rule, foreclosure proceeds used to satisfy a borrower's principal and interest obligation will be insured up to the limit of the SMSIA per mortgagor.

The final rule does not make any changes to the share insurance coverage provided for MSAs comprised of payments from mortgagors of taxes and insurance premiums. Such aggregate escrow accounts are held separately from the principal and interest MSAs, and the funds therein are held for the mortgagors until such time as tax and insurance payments are disbursed by the servicer on the borrower's behalf. Under the final rule, such funds will continue to be insured based on the ownership interest of each mortgagor in the account and aggregated with other funds maintained by the mortgagor at the same FICU in the same capacity and right.

The Board is opting to make this change effective 30 days after publication in the **Federal Register**. Given the change provides more expansive coverage and should not impose additional burden on FICUs or accountholders, the Board does not see a reason to delay its effect.

D. Discussion of Comments

Six commenters expressly supported the proposed rule's changes to insurance of MSAs. In terms of the benefits cited, four commenters noted the importance of parity with FDIC coverage. Three cited the benefits of a standardized approach and fair and equitable treatment. Five noted the greater clarity provided for FICUs and members. Two said the change represents improved protection of the interests of all parties, aligns with best practices, and offers additional security. One stressed the change simplifies the complex landscape and enables FICUs to manage MSAs more confidently and efficiently. That commenter believed the change was crucial for maintaining the integrity and reliability of the MSA system, as the change recognizes the practical realities of servicing arrangements and the various sources of

⁷⁷ See 73 FR 61658, 61658–59 (Oct. 17, 2008).

⁷⁸ 73 FR 62856, 62857 (Oct. 22, 2008).

⁷⁹ The FDIC noted that, to fulfill their contractual obligations with investors, covered IDIs maintain mortgage principal and interest balances at a pool

level and remittances, advances, advance reimbursements, and excess funds applications that affect pool-level balances are not allocated back to individual borrowers.

funds that may be used to satisfy borrowers' obligations. The commenter thought the inclusion of foreclosure collections particularly important, as the current rule does not address it. Two commenters stated the change would help promote financial stability. One said the change would reduce financial institutions' counterparty risk exposure, which also reduces liquidity risk to the FICU holding the MSAs. Another said providing insurance for these advanced funds supports the mortgage market and broader financial system's stability.

One national trade association reported its FICU members expressed initial concerns with increased Share Insurance Fund costs due to larger insured balances from covering funds paid by mortgage servicers. However, after members reviewed the potential effect in greater detail, they concluded any such increase in cost would be nominal. The commenter urged the NCUA to monitor this change to ensure it does not lead to an excessive increase in Share Insurance Fund-related liquidation costs. The Board concurs that this change should only nominally increase any Share-Insurance-Fund related liquidation costs. However, the agency will continue to monitor such costs.

Only one commenter addressed the NCUA's request regarding whether a delayed effective date is necessary. The commenter believed a delayed effective date appropriate but had no concern with an earlier date. As discussed, the Board is opting to make this change effective 30 days after publication in the **Federal Register**. The comments received do not give the Board the impression that commenters were opposed to the change becoming effective without delay. Further, given the change only clarifies and expands share insurance coverage, the NCUA does not believe the change should impose any burden on FICUs or accountholders.

IV. Recordkeeping Requirements

A. Policy Objectives

The NCUA's regulations governing share insurance coverage include general principles applicable in determining insurance of accounts.⁸⁰ Among these general principles are provisions addressing recordkeeping.⁸¹ The NCUA intends for these provisions to clearly articulate the records the agency will look to when evaluating insurance coverage. As discussed in more detail below, over time it has

become apparent that the recordkeeping provisions do not clearly address all situations and may be especially unclear as to accounts maintained by an agent, custodian, fiduciary, or other party on behalf of a member or beneficial owner eligible to maintain an insured account at a FICU. To better address these situations, the NCUA proposed to amend the recordkeeping requirements.

After reviewing the comments received on this proposed change, the Board has decided to finalize the change as proposed. As discussed further below, the Board has also decided to make this change effective 30 days after publication in the **Federal Register**.

B. Background and Need for Rulemaking

Section 745.2(c) of the NCUA's regulations addresses general recordkeeping requirements. Other recordkeeping requirements applicable to specific account types are addressed as needed in the relevant sections of part 745. Current § 745.2(c)(1) provides that, as a general matter, the account records of the FICU shall be conclusive as to the existence of any relationship pursuant to which the funds in the account are deposited and on which a claim for insurance coverage is founded. Examples would be trustee, agent, custodian, or executor. No claim for insurance based on such a relationship will be recognized in the absence of such disclosure.

Section 745.2(c)(2) provides that, if the account records of a FICU disclose the existence of a relationship which may provide a basis for additional insurance, as required under § 745.2(c)(1), the details of the relationship and the interest of other parties in the account must be ascertainable either from the records of the FICU or the records of the member maintained in good faith and in the regular course of business. It is this provision that has raised questions regarding accounts maintained by an agent, fiduciary, or similar party. The NCUA has received several questions regarding whether records maintained by an agent, fiduciary, or similar third party on behalf of the member or beneficial owner eligible to maintain an insured account would qualify as the "records of the member." Due to the frequency with which these agent or fiduciary arrangements will involve a party other than the FICU or member maintaining records on the FICU's or member's behalf, the NCUA proposed to add language explicitly clarifying that such records, when maintained in good faith and in the regular course of business, can be looked to when

evaluating the details of the relationship and the interest of other parties in the account at the FICU.

C. Final Rule

The NCUA is adopting the proposed rule as proposed with no changes. Section 745.3(a)(2) of the NCUA's current regulations provides that when an account is held by an agent or nominee, funds owned by a principal and deposited in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and insured up to the SMSIA in the aggregate. The NCUA will also generally look to the principal or beneficial owner for satisfying the membership requirement or other eligibility to maintain an insured account at the FICU. As such, records maintained by an agent or nominee on behalf of the member principal or beneficial owner may not clearly be considered "records of the member" for the purpose of ascertaining their interests in the account under current § 745.2(c)(2).

The NCUA has previously issued a legal opinion stating that where an agent or custodian "has an agreement with the beneficial owner/member to maintain custody of the beneficial owner/member's records, [the] NCUA would consider those records to be 'records of the member' within the meaning of 12 [CFR] 745(c)(2)."⁸² However, as the NCUA acknowledged in the proposed rule, it would be beneficial for the regulation to more clearly address this situation to allow the details of the relationship and the interests of other parties in the account to be ascertainable either from the account records of the FICU or from records maintained, in good faith and in the regular course of business, by the member or by some person who or entity that has undertaken to maintain such records for the member.

Accordingly, the NCUA is adopting this change as proposed. This change will provide greater clarity, particularly in the event of multi-tiered fiduciary relationships, and would more closely compare to language previously adopted by the FDIC.⁸³ Importantly, the NCUA retains discretion to determine when records are maintained on behalf of a member, in good faith and in the regular course of business. Ultimately, the NCUA must be able to establish ownership interests in the account by following the chain of records

⁸⁰ 12 CFR 745.2.

⁸¹ 12 CFR 745.2(c).

⁸² NCUA Legal Op. 97-0909 (Feb. 6, 1998), available at <https://www.ncua.gov/regulation-supervision/legal-opinions/1997/pass-through-insurance>.

⁸³ 12 CFR 330.5(b)(2).

maintained by parties at each level of the relationship from the account records maintained at the FICU.

Additionally, § 745.2(c)(3) of the current regulations provides that the account records of a FICU in connection with a trust account shall disclose the name of both the settlor (grantor) and the trustee of the trust and shall contain an account signature card executed by the trustee. This requirement goes beyond the recordkeeping requirements of § 745.2(c)(1) through (2) and poses an unnecessary burden on FICUs and their members. Further, the FDIC previously eliminated a similar requirement.⁸⁴ To eliminate unnecessary recordkeeping complexity and provide parity with the FDIC, the NCUA is eliminating current § 745.2(c)(3), as was proposed.

Section 745.2(c)(4) states that the interests of the co-owners of a joint account shall be deemed equal, unless otherwise stated on the insured credit union's records in the case of a tenancy in common. As proposed, the NCUA is not making any substantive amendments to this provision but is moving it to § 745.2(c)(3) given the elimination of the current requirement in that section.

Finally, § 745.14(a)(2) notes that interest on lawyers' trust accounts (IOLTAs) and other similar escrow accounts are subject to the recordkeeping requirements of § 745.2(c)(1) and (2). In doing so, § 745.14(a)(2) provides an example of how the details of the relationship between the attorney or escrow agent and their clients and principals must be ascertainable from the records of the FICU or from records maintained, in good faith and in the regular course of business, by the member attorney or member escrow agent administering the account. As was proposed, the final rule amends this description to conform to the change to § 745.2(c)(2) to explicitly state that the records detailing the relationship and the interest of other parties in the account must be maintained, in good faith and in the regular course of business, by: (1) the FICU; or (2) the member attorney or member escrow agent, or a person or entity acting on their behalf.

D. Discussion of Comments

All seven commenters who addressed the proposed recordkeeping requirement changes supported the changes. Two commenters stated requiring the details of a relationship and the interests of other parties in an account to be ascertainable from records maintained in good faith is a sound

practice, which should ensure transparency and accountability. One said the proposal would provide an approach consistent with FDIC pass-through deposit insurance expectations for various types of "other similar escrow account" that may exist, including sweep accounts. One commenter noted many FICU members rely on trusted third parties for recordkeeping as part of their estate planning. The commenter also believed this change should reduce inquiries to the NCUA.

One commenter noted support for the proposed removal of the requirement that the account records of a FICU in connection with a trust account shall disclose the name of both the grantor and the trustee of the trust and shall contain an account signature card executed by the trustee. The commenter agreed the requirement poses an unnecessary burden on FICUs and members.

Four commenters said the change provides FICUs adequate clarity as to the records the NCUA will look to when evaluating the details of account relationships and the interests of other parties in accounts maintained at FICUs. One urged the Board to finalize the change as proposed. Another understood there to be only limited confusion regarding the issue but noted support for reduced burden and enhanced usability of the rules.

In response to the proposal's questions on the subject, one commenter said that, while the proposed change is a significant step towards clarity and provides essential guidance in complex account management scenarios, there may be alternative or additional steps that could further align with the NCUA's policy objectives, including the following: (1) adopting a definition of "account records" similar to the FDIC's definition of "deposit account records" to standardize the documentation framework, ensure uniformity, and reduce ambiguity in what constitutes necessary records; (2) adopting specific detailed provisions for multi-tiered fiduciary relationships akin to those adopted by the FDIC, which would help clarify the responsibilities and recordkeeping obligations in complex arrangements involving multiple parties; and (3) adopting broader definitions and illustrative examples for various account relationships, such as joint accounts or trusts with multiple beneficiaries. The commenter said it is imperative to ensure the recordkeeping regulations remain relevant and effective as technology advances and banking evolves into a more digital

domain. The commenter suggested adding a periodic review and update clause for the recordkeeping requirements to ensure regulations stay current with the evolving banking practices. The commenter believed this would be especially pertinent for handling international accounts or accounts involved in complex transactions.

The Board will take these additional recommendations into consideration as it continues to evaluate ways to improve the NCUA's share insurance regulations. The Board notes that NCUA staff routinely review rules for effectiveness, including through its annual review of one-third of its regulations and the Economic Growth and Regulatory Paperwork Reduction Act (also known as EGRPRA) process that the NCUA voluntarily undertakes every ten years.

The proposal also requested comment on whether the NCUA should consider adoption of heightened recordkeeping requirements, akin to those the FDIC adopted in part 370 of its regulations, to facilitate prompt payment of insurance when large institutions fail. Six commenters addressed the possibility. None of the commenters supported adoption of such requirements, but some did provide recommendations if the NCUA were to adopt a similar regime. The Board will take this feedback into consideration as it further studies the possibility of proposing similar requirements.

The proposed rule asked about whether there was any reason to delay the effective date of the recordkeeping change. This question intended to elicit comments on whether a delayed effective date for the proposed recordkeeping requirements changes would allow more flexibility when evaluating share insurance coverage by clarifying that the NCUA can look to records maintained by a third party on a member's behalf if they are maintained in good faith and in the regular course of business. One commenter believed a delayed effective date for those changes appropriate but had no concern with an earlier date.

Another commenter seemingly interpreted this question as asking about a delayed effective date for potential NCUA adoption of a regime similar to the FDIC's, as was asked about in the previous question in the proposal, rather than about a delayed effective date for the proposed changes to the recordkeeping requirements. This commenter believed timing pivotal and suggested the NCUA grant FICUs an extended period to comply because of the intricacies of compliance, especially in terms of recordkeeping, and need to

⁸⁴ 51 FR 21137 (June 11, 1986).

effectively adapt FICU processes and systems without experiencing undue burden.⁸⁵ Given the proposed changes would not increase burden on FICUs or members, but instead clarify that the NCUA will look to more expansive records to evaluate parties' interest in insured accounts, the concerns the commenter raised do not seem applicable to the changes proposed.

As discussed, the Board is opting to make this change effective 30 days after publication in the **Federal Register**. The comments received do not give the Board the impression that commenters were opposed to the change becoming effective without delay. Further, given the change only clarifies that the NCUA has additional flexibility to look to additional records to determine parties' interests in an account, the Board does not believe that it will impose any burden on FICUs or their members. The Board believes that clarifying that the NCUA has this greater discretion to look to additional records will only provide benefit.

V. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires that, in connection with a final rulemaking, an agency prepare and make available for public comment a final regulatory flexibility analysis that describes the effect of the final rule on small entities. A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic effect on a substantial number of small entities (defined for the purposes of the RFA to include credit unions with assets less than \$100 million)⁸⁶ and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

The Board fully considered the potential economic effect of the changes made by this final rule during its development. As noted in the preamble, the final rule simplifies the NCUA's current share insurance regulations covering types of trust accounts. It also provides more flexibility on the coverage of MSAs. Finally, it explicitly provides for additional flexibility in what records the NCUA can look to when determining the details of account relationships and various parties' interests in the accounts.

In short, the Board believes the principal consequence of the final rule will be to streamline its administrative procedures for insurance payouts on trust accounts when FICUs fail. Though the final rule will require FICUs and their members to be familiar with the new trust rules and the coverage limits imposed on trust accounts, the NCUA believes this will not impose any new significant burden on FICUs, may ease some existing requirements, and should reduce the complexity of questions FICUs receive from their members on share insurance coverage.

Additionally, FICUs and their members are familiar with the new formula as it is already applied to revocable trust accounts with five or fewer beneficiaries. The formula is also simpler to understand and implement than the previous rules governing revocable trust accounts with six or more beneficiaries and irrevocable trusts.

Ultimately, the changes to the rule governing coverage of MSAs and the changes to the recordkeeping requirements should only provide greater flexibility for coverage of these accounts and should not cause any new burden on FICUs or their members. Accordingly, the NCUA certifies that this final rule will not have a significant economic effect on a substantial number of small FICUs.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or modifies an existing burden.⁸⁷ For the purposes of the PRA, a paperwork burden may take the form of a reporting, disclosure, or recordkeeping requirement, each referred to as an information collection. The NCUA 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 final rule does not contain information collection requirements that require approval by OMB under the PRA. The final rule will not create new or modify any existing paperwork burdens. Rather, the final rule will simplify the share insurance regulations by merging the revocable and irrevocable trust account categories into one trust account category and applying a simpler, common calculation method to determine insurance coverage for funds held in revocable and irrevocable

trust accounts. The final rule will also provide consistent share insurance treatment for all MSA balances held to satisfy principal and interest obligations to a lender, regardless of whether those funds are paid into the account by borrowers or paid into the account by another party (such as the servicer) to satisfy a periodic obligation to remit principal and interest due to the lender. Finally, the final rule will explicitly allow the NCUA, when undertaking share insurance determinations, to look to records held in the normal course of business that are maintained by parties other than a FICU and its members on their behalf. As such, no PRA submissions to OMB will be made with respect to this final rule.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the effect of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the principles of the Executive Order to adhere to fundamental federalism principles. This final rule will only impact the NCUA's regulations related to share insurance coverage; it will not affect state law related to trust accounts. The final rule will also not alter the NCUA's relationship or division of responsibilities with state regulatory agencies or bodies because the final rule will affect the NCUA's Federal share insurance determinations exclusively. This final rule will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has determined that this final rule does not constitute a policy that has federalism implications for the purposes of the Executive Order.

D. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105-277, 112 Stat. 2681 (1998). Under this statute, if the agency determines the final regulation may negatively affect family well-being, then the agency must provide an adequate rationale for its implementation.

The NCUA has determined that the implementation of this rule will not negatively affect family well-being. The NCUA believes that any negative effect

⁸⁵ This commenter specifically responded to this question. However, it seems likely the commenter interpreted the question as asking whether a delayed effective date would be appropriate for adopting a part 370 type regime, which was asked about in the preceding question.

⁸⁶ See 80 FR 57512 (Sept. 24, 2015).

⁸⁷ 44 U.S.C. 3507(d).

will be limited because the trust changes may not affect many accounts, and members or others maintaining those accounts will have time and notice to modify the accounts before the final rule goes into effect. Further, the MSA and recordkeeping changes offset negative effects because they will instead provide the NCUA more flexibility to provide share insurance coverage with respect to funds dedicated to pay loans and other obligations related to family homes and businesses. If the NCUA ultimately finds that the rule does have a negative effect as the statute describes, it believes the benefits that the preamble describes in simplifying coverage and potentially reducing costs for the NCUA and for FICUs would support implementing the rule.

E. Small Business Regulatory Enforcement Fairness Act (Congressional Review Act)

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) generally provides for congressional review of new agency rules that qualify as “major” under criteria specified in the Act.⁸⁸ The NCUA’s analysis indicates the rule falls short of qualifying as “major” under SBREFA’s criteria. As required by SBREFA, the NCUA is submitting this final rule and its economic impact analysis to OMB for concurrence on the “not major” determination. The NCUA also will file all other appropriate congressional reports.

List of Subjects in 12 CFR Part 745

Credit, Credit Unions, Share Insurance.

By the National Credit Union Administration Board on September 19, 2024.

Melane Conyers-Ausbrooks,
Secretary of the Board.

For the reasons discussed in the preamble, the Board is amending 12 CFR part 745 as follows:

PART 745—SHARE INSURANCE COVERAGE

- 1. The authority citation for part 745 continues to read as follows:

Authority: 12 U.S.C. 1752(5), 1757, 1765, 1766, 1781, 1782, 1787, 1789; title V, Pub. L. 109–351; 120 Stat. 1966.

- 2. The heading for part 745 is revised to read as set forth above.

§ 745.0 [Amended]

- 3. Amend § 745.0 in the first sentence by removing the words “and appendix”.
- 4. Revise § 745.1 to read as follows:

§ 745.1 Definitions.

For the purposes of this part:

Account or *accounts* mean share, share certificate, or share draft accounts (or their equivalent under state law, as determined by the Board in the case of insured state-chartered credit unions) of a member (which includes other credit unions, public units, and nonmembers where permitted under the Act) in a credit union of a type approved by the Board which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member.

Member or *members* mean those persons enumerated in the credit union’s field of membership who have been elected to membership in accordance with the Act or state law in the case of state-chartered credit unions. It also includes those nonmembers permitted under the Act to maintain accounts in an insured credit union, including nonmember credit unions and nonmember public units and political subdivisions.

Non-contingent interest means an interest capable of determination without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–7 of the Federal Estate Tax Regulations (26 CFR 20.2031–7) or any similar present worth or life expectancy tables which may be adopted by the Internal Revenue Service.

Political subdivision includes any subdivision of a public unit, as defined in paragraph (c) of this section, or any principal department of such public unit,

(1) The creation of which subdivision or department has been expressly authorized by state statute;

(2) To which some functions of government have been delegated by state statute; and

(3) To which funds have been allocated by statute or ordinance for its exclusive use and control. It also includes drainage, irrigation, navigation improvement, levee, sanitary, school or power districts and bridge or port authorities, and other special districts created by state statute or compacts between the states. Excluded from the term are subordinate or nonautonomous divisions, agencies, or boards within principal departments.

Public unit means the United States, any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, any territory or possession of the United States, any county, municipality, or political subdivision thereof, or any Indian Tribe as defined in section 3(c) of the Indian Financing Act of 1974.

Standard maximum share insurance amount referred to as the “SMSIA” hereafter, means \$250,000 adjusted pursuant to subparagraph (F) of section 11(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(1)(F)).

- 5. Effective October 30, 2024, amend § 745.2 by revising paragraph (c)(2) to read as follows:

§ 745.2 General principles applicable in determining insurance of accounts.

* * * * *

(c) * * *

(2) If the account records of an insured credit union disclose the existence of a relationship which may provide a basis for additional insurance, the details of the relationship and the interest of other parties in the account must be ascertainable either from the records of the credit union or the records of the member, maintained in good faith and in the regular course of business by the member or by some person who or entity that has undertaken to maintain such records for the member.

* * * * *

- 6. Further amend § 745.2 by:

- a. Revising paragraph (a);
- b. Removing paragraph (c)(3);
- c. Redesignating paragraph (c)(4) as paragraph (c)(3);
- d. Removing paragraph (d); and
- e. Redesignating paragraphs (e) and (f) as paragraphs (d) and (e).

The revision reads as follows:

§ 745.2 General principles applicable in determining insurance of accounts.

(a) *General.* This part provides for determination by the Board of the amount of members’ insured accounts. The rules for determining the insurance coverage of accounts maintained by members in the same or different rights and capacities in the same insured credit union are set forth in the following provisions of this part. While the provisions of this part govern in determining share insurance coverage, to the extent local law enters into a share insurance determination, the local law of the jurisdiction in which the insured credit union’s principal office is located will control over the local law of other jurisdictions where the insured

⁸⁸ 5 U.S.C. 801–804.

credit union has offices or service facilities.

* * * * *

■ 7. Effective October 30, 2024, amend § 745.3 by revising paragraph (a)(3) to read as follows:

§ 745.3 Single ownership accounts.

(a) * * *

(3) *Mortgage servicing accounts.*

Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments of principal and interest, shall be insured for the cumulative balance paid into the account by mortgagors, or in order to satisfy mortgagors' principal or interest obligations to the lender, up to the limit of the SMSIA per mortgagor. Accounts maintained by a mortgage servicer, in a custodial or other fiduciary capacity, which are comprised of payments by mortgagors of taxes and insurance premiums shall be added together and insured in accordance with paragraph (a)(2) of this section for the ownership interest of each mortgagor in such accounts.

* * * * *

■ 8. Revise § 745.4 to read as follows:

§ 745.4 Trust accounts.

(a) *Scope and definitions.* This section governs coverage for funds held in connection with informal revocable trusts, formal revocable trusts, and irrevocable trusts. For the purposes of this section:

(1) *Informal revocable trust* means a trust under which deposited funds pass directly to one or more beneficiaries upon the owner's death without a written trust agreement, commonly referred to as a payable-on-death account, in-trust-for account, or Totten trust account.

(2) *Formal revocable trust* means a revocable trust established by a written trust agreement under which deposited funds pass to one or more beneficiaries upon the grantor's death.

(3) *Irrevocable trust* means an irrevocable trust established by statute or a written trust agreement, except as described in paragraph (e) of this section.

(b) *Calculation of coverage—*

(1) *General calculation.* Deposited trust funds are insured in an amount up to the SMSIA multiplied by the total number of beneficiaries identified by each grantor, up to a maximum of five beneficiaries.

(2) *Aggregation for purposes of insurance limit.* Deposited trust funds that pass from the same grantor to beneficiaries are aggregated for the

purposes of determining coverage under this section, regardless of whether those funds are held in connection with an informal revocable trust, formal revocable trust, or irrevocable trust.

(3) *Separate insurance coverage.* The share insurance coverage provided under this section is separate from coverage provided for other funds at the same federally insured credit union.

(4) *Equal allocation presumed.* Unless otherwise specified in the account records of the federally insured credit union, deposited funds held in connection with a trust established by multiple grantors are presumed to have been owned or funded by the grantors in equal shares.

(c) *Number of beneficiaries.* The total number of beneficiaries for trust funds deposited under paragraph (b) of this section will be determined as follows:

(1) *Eligible beneficiaries.* Subject to paragraph (c)(2) of this section, beneficiaries include natural persons, as well as charitable organizations and other non-profit entities recognized as such under the Internal Revenue Code of 1986, as amended.

(2) *Ineligible beneficiaries.*

Beneficiaries do not include:

(i) The grantor of a trust; or
(ii) A person or entity that would only obtain an interest in the deposited funds if one or more named beneficiaries are deceased.

(3) *Future trust(s) named as beneficiaries.* If a trust agreement provides that trust funds will pass into one or more new trusts upon the death of the grantor(s) ("future trusts"), the future trust(s) are not treated as beneficiaries of the trust; rather, the future trust(s) are viewed as mechanisms for distributing trust funds, and the beneficiaries are the natural persons or organizations that shall receive the trust funds through the future trusts.

(4) *Informal trust account payable to member's formal trust.* If an informal revocable trust designates the account owner's formal trust as its beneficiary, the informal revocable trust account will be treated as if titled in the name of the formal trust.

(d) *Account records—*(1) *Informal revocable trusts.* The beneficiaries of an informal revocable trust must be specifically named in the account records of the federally insured credit union.

(2) *Formal revocable trusts.* The title of a formal trust account must include terminology sufficient to identify the account as a trust account, such as "family trust" or "living trust," or must otherwise be identified as a testamentary trust in the account

records of the federally insured credit union. If eligible beneficiaries of such formal revocable trust are specifically named in the account records of the federally insured credit union, the NCUA shall presume the continued validity of the named beneficiaries' interest in the trust.

(e) *Deposited funds excluded from coverage under this section—*(1) *Revocable trust co-owners that are sole beneficiaries of a trust.* If the co-owners of an informal or formal revocable trust are the trust's sole beneficiaries, deposited funds held in connection with the trust are treated as joint ownership funds under § 745.8.

(2) *Employee benefit plan deposits.* Deposited funds of employee benefit plans, even if held in connection with a trust, are treated as employee benefit plan funds under § 745.9.

§ 745.9–1 [Removed]

■ 9. Remove § 745.9–1.

§ 745.9–2 [Redesignated as § 745.9]

■ 10. Redesignate § 745.9–2 as § 745.9.

§ 745.9 [Amended]

■ 11. Amend newly designated § 745.9 in paragraph (a) by removing the phrase "in accordance with § 745.2 of this part".

§ 745.13 [Amended]

■ 12. Amend § 745.13 in the second sentence by removing "the appendix,".

■ 13. Effective October 30, 2024, amend § 745.14 by revising paragraph (a)(2) to read as follows:

§ 745.14 Interest on lawyers trust accounts and other similar escrow accounts.

(a) * * *

(2) Pass-through coverage will only be available if the recordkeeping requirements of § 745.2(c)(1) and the relationship disclosure requirements of § 745.2(c)(2) are satisfied. In the event those requirements are satisfied, funds attributable to each client and principal will be insured on a pass-through basis in whatever right and capacity the client or principal owns the funds. For example, an IOLTA or other similar escrow account must be titled as such, and the underlying account records of the insured credit union must sufficiently indicate the existence of the relationship on which a claim for insurance is founded. The details of the relationship between the attorney or escrow agent and their clients and principals must be ascertainable from the records of the insured credit union or from records maintained, in good faith and in the regular course of business, by the attorney or the escrow

agent administering the account, or by some person who or entity that has undertaken to maintain such records for the attorney or escrow agent. The NCUA will determine, in its sole discretion, the sufficiency of these records for an IOLTA or other similar escrow account.

* * * * *

Appendix to Part 745 [Removed]

■ 14. Remove the appendix to part 745.

[FR Doc. 2024-21888 Filed 9-27-24; 8:45 am]

BILLING CODE 7535-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-0994; Project Identifier MCAI-2023-01238-T; Amendment 39-22828; AD 2024-17-03]

RIN 2120-AA64

Airworthiness Directives; Embraer S.A. (Type Certificate Previously Held by Yaborã Indústria Aeronáutica S.A.; Embraer S.A.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019-24-16, which applied to certain Embraer S.A. Model ERJ 190-100 STD, -100 LR, -100 IGW, and -100 ECJ airplanes; and Model ERJ 190-200 STD, -200 LR, and -200 IGW airplanes. AD 2019-24-16 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2019-24-16, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This AD requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in an Agência Nacional de Aviação Civil (ANAC) AD, which is incorporated by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 4, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 4, 2024.

The Director of the Federal Register approved the incorporation by reference of certain other publications listed in

this AD as of February 3, 2020 (84 FR 71772, December 30, 2019).

ADDRESSES:

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0994; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For ANAC material identified in this AD, contact National Civil Aviation Agency (ANAC), Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246-190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203-6600; email pac@anac.gov.br; website anac.gov.br/en/. You may find this material on the ANAC website at sistemas.anac.gov.br/certificacao/DA/DAE.asp.
- For Embraer material identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227-901 São José dos Campos—SP—Brazil; telephone 55 (12) 3927-5852 or 55 (12) 3309-0732; fax 55 (12) 3927-7546; email distrib@embraer.com.br; website www.flyembraer.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0994.

FOR FURTHER INFORMATION CONTACT:

Joshua Bragg, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 216-316-6418; email joshua.k.bragg@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019-24-16, Amendment 39-21005 (84 FR 71772, December 30, 2019) (AD 2019-24-16). AD 2019-24-16 applied to certain Embraer S.A. Model ERJ 190-100 STD, -100 LR, -100 IGW, and -100 ECJ

airplanes; and Model ERJ 190-200 STD, -200 LR, and -200 IGW airplanes. AD 2019-24-16 required revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2019-24-16 to address fatigue cracking of structural components and to address failure of certain system components, which could result in reduced structural integrity and system reliability of the airplane.

The NPRM published in the **Federal Register** on April 4, 2024 (89 FR 23529). The NPRM was prompted by AD 2023-12-02, effective December 15, 2023, issued by ANAC, which is the aviation authority for Brazil (ANAC AD 2023-12-02) (also referred to as the MCAI), for certain Embraer S.A. Model ERJ 190-100 STD, -100 LR, -100 IGW, -100 SR, and -100 ECJ airplanes; and Model ERJ 190-200 STD, -200 LR, and -200 IGW airplanes. Model ERJ 190-100SR airplanes are not on the U.S. Register; this AD therefore does not include those airplanes in the applicability. The MCAI states that new or more restrictive airworthiness limitations have been developed.

In the NPRM, the FAA proposed to retain all requirements of AD 2019-24-16, and require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in ANAC AD 2023-12-02. The FAA is issuing this AD to address failure of certain system components. The unsafe condition, if not addressed, could result in reduced structural integrity and system reliability of the airplane.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-0994.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD

to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

ANAC AD 2023–12–02 specifies procedures for new or more restrictive airworthiness limitations for airplane structures and safe life limits.

This AD also requires the following documents, which the Director of the Federal Register approved for incorporation by reference as of February 3, 2020 (84 FR 71772, December 30, 2019).

- Appendix A—Airworthiness Limitations (AL), to the EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 12, dated September 27, 2018.

- Appendix A—Airworthiness Limitations (AL), to the EMBRAER Lineage 1000/1000E Maintenance Planning Guide, MPG–2928, Revision 8, dated October 10, 2018.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

Costs of Compliance

The FAA estimates that this AD affects 98 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

The FAA estimates the total cost per operator for the retained actions from AD 2019–24–16 to be \$7,650 (90 workhours × \$85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 workhours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new actions to be \$7,650 (90 work-hours × \$85 per work-hour).

Authority for This Rulemaking

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

detail the scope of the Agency's authority.

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
 - a. Removing Airworthiness Directive (AD) 2019–24–16, Amendment 39–21005 (84 FR 71772, December 30, 2019); and
 - b. Adding the following new AD:
2024–17–03 Embraer S.A. (Type Certificate Previously Held by Yabará Indústria Aeronáutica S.A.; Embraer S.A.; Empresa Brasileira de Aeronáutica S.A.

(EMBRAER)): Amendment 39–22828; Docket No. FAA–2024–0994; Project Identifier MCAI–2023–01238–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 4, 2024.

(b) Affected ADs

This AD replaces AD 2019–24–16, Amendment 39–21005 (84 FR 71772, December 30, 2019) (AD 2019–24–16).

(c) Applicability

This AD applies to Embraer S.A. Model ERJ 190–100 STD, –100 LR, –100 ECJ, and –100 IGW airplanes; and Model ERJ 190–200 STD, –200 LR, and –200 IGW airplanes; certificated in any category; as identified in Agência Nacional de Aviação Civil (ANAC) AD 2023–12–02, effective December 15, 2023 (ANAC AD 2023–12–02).

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address failure of certain system components. The unsafe condition, if not addressed, could result in reduced structural integrity and system reliability of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (i) of AD 2019–24–16, with no changes. For airplanes having serial numbers 19000002, 19000004, 19000006 through 19000213 inclusive, 19000215 through 19000276 inclusive, 19000278 through 19000466 inclusive, 19000468 through 19000525 inclusive, and 19000527 through 19000758 inclusive: Do the revision required by paragraph (g)(1) or (2) of this AD, as applicable. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (i) of this AD terminates the requirements of this paragraph.

(1) For Model ERJ 190–100 STD, ERJ 190–100 LR, ERJ 190–100 IGW, ERJ 190–200 STD, ERJ 190–200 LR, and ERJ 190–200 IGW airplanes: Within 90 days after February 3, 2020 (the effective date of AD 2019–24–16), revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in Appendix A—Airworthiness Limitations (AL); to the EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 12, dated September 27, 2018 (“EMBRAER 190/195 MRB–1928, Revision 12”). The initial compliance times for doing the tasks are at the later of the times specified in paragraphs (g)(1)(i) and (ii) of this AD.

(i) Within the applicable times specified in EMBRAER 190/195 MRB–1928, Revision 12. For the purposes of this AD, the initial compliance times (identified as “Threshold” or “T” in EMBRAER 190/195 MRB–1928, Revision 12) are expressed in “total flight cycles” or “total flight hours” as applicable.

(ii) Within 90 days or 600 flight cycles after February 3, 2020 (the effective date of AD 2019–24–16), whichever occurs later.

(2) For Model ERJ 190–100 ECJ airplanes: Within 90 days after February 3, 2020 (the effective date of AD 2019–24–16), revise the existing maintenance or inspection program, as applicable, to incorporate the tasks specified in Appendix A—Airworthiness Limitations (AL), to the EMBRAER Lineage 1000/1000E Maintenance Planning Guide, MPG–2928, Revision 8, dated October 10, 2018 (“EMBRAER Lineage 1000/1000E MPG–2928, Revision 8”). The initial compliance times for the tasks are at the later of the times specified in paragraphs (g)(2)(i) and (ii) of this AD.

(i) Within the applicable times specified in EMBRAER Lineage 1000/1000E MPG–2928, Revision 8. For the purposes of this AD, the initial compliance times (identified as “Threshold” or “T” in EMBRAER Lineage 1000/1000E MPG–2928, Revision 8) are expressed in “total flight cycles” or “total flight hours” as applicable.

(ii) Within 90 days or 600 flight cycles after February 3, 2020 (the effective date of AD 2019–24–16), whichever occurs later.

(h) Retained Restrictions on Alternative Actions, Intervals, and Critical Design Configuration Control Limitations (CDCCLs), With a New Exception

This paragraph restates the requirements of paragraph (j) of AD 2019–24–16, with a new exception. Except as required by paragraph (i) of this AD: After the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (e.g., inspections), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs are approved as an AMOC in accordance with the procedures specified in paragraph (k)(1) of this AD.

(i) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (j) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, ANAC AD 2023–12–02. Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(j) Exceptions to ANAC AD 2023–12–02

(1) Where ANAC AD 2023–12–02 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt paragraph (d) of ANAC AD 2023–12–02.

(3) Where paragraph (c) of ANAC AD 2023–12–02 refers to “alternative inspections or inspection intervals,” for this AD, replace that text with “alternative actions (e.g., inspections), intervals, and CDCCLs.”

(k) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (l) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or ANAC; or ANAC’s authorized Designee. If approved by the ANAC Designee, the approval must include the Designee’s authorized signature.

(l) Additional Information

For more information about this AD, contact Joshua Bragg, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone (216) 316–6418; email joshua.k.bragg@faa.gov.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(3) The following material was approved for IBR on [DATE 35 DAYS AFTER PUBLICATION OF THE FINAL RULE].

(i) Agência Nacional de Aviação Civil (ANAC) AD 2023–12–02, effective December 15, 2023.

(ii) [Reserved]

(4) The following material was approved for IBR on February 3, 2020 (84 FR 71772, December 30, 2019).

(i) Appendix A—Airworthiness Limitations (AL); to the EMBRAER 190/195 Maintenance Review Board Report, MRB–1928, Revision 12, dated September 27, 2018.

(ii) Appendix A—Airworthiness Limitations (AL), to the EMBRAER Lineage 1000/1000E Maintenance Planning Guide, MPG–2928, Revision 8, dated October 10, 2018.

(5) For ANAC AD 2023–12–02 identified in this AD, contact ANAC, Aeronautical Products Certification Branch (GGCP), Rua Dr. Orlando Feirabend Filho, 230—Centro Empresarial Aquarius—Torre B—Andares 14 a 18, Parque Residencial Aquarius, CEP 12.246–190—São José dos Campos—SP, Brazil; telephone 55 (12) 3203–6600; email pac@anac.gov.br; website anac.gov.br/en/. You may find this ANAC AD on the ANAC website at sistemas.anac.gov.br/certificacao/DA/DAE.asp.

(6) For Embraer material identified in this AD, contact Embraer S.A., Technical Publications Section (PC 060), Av. Brigadeiro Faria Lima, 2170—Putim—12227–901 São José dos Campos—SP—Brazil; telephone 55 (12) 3927–5852 or 55 (12) 3309–0732; fax 55 (12) 3927–7546; email distrib@embraer.com.br; website www.flyembraer.com.

(7) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(8) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on August 20, 2024.

Suzanne Masterson,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–22318 Filed 9–27–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–1288; Project Identifier MCAI–2024–00063–T; Amendment 39–22818; AD 2024–16–12]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A330–243, –302, –343, and –941 airplanes. This AD was prompted by a determination that a certain aft bulkhead cover panel may have been made with a non-conforming material. This AD requires replacing the aft bulkhead cover panel and prohibits the installation of affected parts, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 4, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 4, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–1288; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *regulations.gov* under Docket No. FAA–2024–1288.

FOR FURTHER INFORMATION CONTACT:

Vladimir Ulyanov, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 206–231–3229; email: vladimir.ulyanov@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A330–243, –302, –343, and –941 airplanes. The NPRM published in the **Federal Register** on May 6, 2024 (89 FR 37142). The NPRM was prompted by AD 2024–0023, dated January 23, 2024, issued by EASA, which is the Technical Agent for the Member States of the European Union (EASA AD 2024–0023) (also referred to as the MCAI). The MCAI states that a certain aft bulkhead cover panel may have been made with a non-conforming material. This panel is installed in galley G4 and does not meet the heat release requirements. This condition, if not corrected, represents a non-compliance with certification requirements that could result in injury to occupants and reduced evacuation capacity from the airplane in case of an emergency.

In the NPRM, the FAA proposed to require replacing the aft bulkhead cover panel and prohibit the installation of affected parts, as specified in EASA AD 2024–0023. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–1288.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from Air Line Pilots Association,

International (ALPA), who supported the NPRM without change.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data, considered the comment received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0023 specifies replacing the aft bulkhead cover panel installed in galley G4 and prohibits the installation of affected parts. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 25 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3.5 work-hours × \$85 per hour = \$298	Up to \$123,000	Up to \$123,298	Up to \$3,082,450.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–16–12 Airbus SAS: Amendment 39–22818; Docket No. FAA–2024–1288; Project Identifier MCAI–2024–00063–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 4, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A330–243, –302, –343, and –941 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0023, dated January 23, 2024 (EASA AD 2024–0023).

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by a determination that a certain aft bulkhead cover panel may have been made with a non-conforming material. The FAA is issuing this AD to address the non-conforming aft bulkhead cover panel. The unsafe condition, if not addressed, could result in injury to occupants, and reduced evacuation capacity from the airplane in case of an emergency.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0023.

(h) Exceptions to EASA AD 2024–0023

(1) Where EASA AD 2024–0023 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the “Remarks” section of EASA AD 2024–0023.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your

request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD: For material that contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Vladimir Ulyanov, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 206–231–3229; email: vladimir.ulyanov@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2024–0023, dated January 23, 2024.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this EASA material on the EASA website ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th Street, Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations, or email fr.inspection@nara.gov.

Issued on August 2, 2024.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–22258 Filed 9–27–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. **FAA–2024–0462**; Project Identifier **MCAI–2022–00523–R**; Amendment **39–22826**; AD **2024–17–01**]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2021–11–17 and AD 2021–11–22, which applied to all Airbus Helicopters Deutschland GmbH (AHD) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3 and EC635T2 helicopters. AD 2021–11–17 required a one-time visual inspection of certain part-numbered main rotor actuators (MRAs). AD 2021–11–22 required revising the life limits of certain parts and removing each part that had reached its life limit. Since the FAA issued those ADs, it was determined that repetitive inspections of the MRAs are necessary, new and more restrictive tasks and limitations have been issued, and that it is necessary to expand the applicability. This AD continues to require the actions required by AD 2021–11–17 and AD 2021–11–22, except this AD requires changing the one-time MRA inspection to a repetitive inspection and incorporating other new and more restrictive tasks and limitations by revising the airworthiness limitations section (ALS) of the existing helicopter maintenance manual or instructions for continued airworthiness and the existing approved maintenance or inspection program, as applicable. This AD also expands the applicability by adding Model EC635T2+ helicopters. These actions are specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 4, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as November 4, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–0462; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For EASA material identified in this AD, contact Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: *ADs@easa.europa.eu*; website: *easa.europa.eu*. You may find the EASA material on the EASA website at *ad.easa.europa.eu*.

- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222 5110. It is also available in the AD docket at *regulations.gov* under Docket No. FAA 2024–0462.

FOR FURTHER INFORMATION CONTACT: Joe Salameh, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231–3536; email: *joe.salameh@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2021–11–17, Amendment 39–21579 (86 FR 31087, June 11, 2021) (AD 2021–11–17), and AD 2021–11–22, Amendment 39–21584 (86 FR 31101, June 11, 2021) (AD 2021–11–22). AD 2021–11–17 and AD 2021–11–22 applied to all Airbus Helicopters Deutschland GmbH (AHD) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, and EC135T3 helicopters. AD 2021–11–17 required a one-time visual inspection of the MRA, and AD 2021–11–22 required revising the life limit of certain parts and removing from service each part that had reached its life limit. The FAA issued AD 2021–11–17 to prevent failure of the MRA and

subsequent loss of the control of the helicopter. The FAA issued AD 2021–11–22 to prevent certain parts from remaining in service beyond their fatigue life, resulting in failure of the part and subsequent loss of control of the helicopter.

The NPRM published in the **Federal Register** on March 11, 2024 (89 FR 17348). The NPRM was prompted by EASA AD 2022–0067, dated April 13, 2022 (EASA AD 2022–0067) (referred to after this as the MCAI), issued by EASA, which is the Technical Agent for the Member States of the European Union. The MCAI states that repetitive inspections of MRA are necessary.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–0462.

In the NPRM, the FAA proposed to continue to require the actions required by AD 2021–11–17 and AD 2021–11–22, except the NPRM proposed to require changing the one-time MRA inspection to a repetitive inspection and incorporating other new and more restrictive tasks and limitations by revising the ALS of the existing helicopter maintenance manual or instructions for continued airworthiness and the existing approved maintenance or inspection program, as applicable. The NPRM also proposed to expand the applicability by adding Model EC635T2+ helicopters.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the costs.

Conclusion

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, this AD is adopted as proposed in the NPRM.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2022–0067 requires replacing components before exceeding their life limits and accomplishing maintenance tasks within thresholds and intervals specified in the applicable

ALS as defined in EASA AD 2022–0067. Depending on the results of the maintenance tasks, EASA AD 2022–0067 requires accomplishing corrective action(s) or contacting AHD [Airbus Helicopters Deutschland GmbH AHD] for approved instructions and accomplishing those instructions. EASA AD 2022–0067 also requires revising the Aircraft Maintenance Programme (AMP) by incorporating the limitations, tasks, and associated thresholds and intervals described in the specified ALS as applicable to helicopter model and configuration. Revising the AMP constitutes terminating action for the requirements to replace components before exceeding their life limits and accomplish maintenance tasks within thresholds and intervals specified in the applicable ALS as required by EASA AD 2022–0067.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Material

The FAA also reviewed Airbus Chapter 04 ALS for EC135 P1, P2, P3, T1, T2, T3, limited to CDS, CPDS, P2+, T2+ helicopters, Revision 2, dated April 6, 2021, and Airbus Chapter 04 ALS for EC135 P3H and T3H helicopters, Revision 2, dated April 6, 2021. This material specifies airworthiness limitations, tasks, and associated thresholds and intervals for various parts. Revision 2 of this material specifies various updates for certain components.

Differences Between This AD and the EASA AD

EASA AD 2022–0067 applies to Model EC635 P2+, EC635 P3, EC635 T1, and EC635 T3 helicopters, whereas this AD does not because these model helicopters are not FAA type-certificated.

EASA AD 2022–0067 requires replacing certain components before exceeding applicable life limits, accomplishing certain maintenance tasks within thresholds and intervals as specified in the ALS, as defined within, and depending on the results, accomplishing corrective action within the compliance time specified in that ALS. EASA AD 2022–0067 also requires revising the approved AMP to incorporate the limitations, tasks, and associated thresholds and intervals described in that ALS within 12 months after its effective date. Whereas, this AD requires revising existing documents and programs within 30 days to incorporate the limitations, tasks, and

associated thresholds and intervals described in that ALS, and clarifies that if the initial instance of an incorporated limitation or threshold therein is reached before 30 days after the effective date of this AD, you still have up to 30 days after the effective date of this AD to accomplish the corresponding task.

Costs of Compliance

The FAA estimates that this AD affects 272 helicopters of U.S. Registry. Labor rates are estimated at \$85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Revising the ALS of the existing helicopter maintenance manual or instructions for continued airworthiness for your helicopter and the existing approved maintenance or inspection program for your helicopter, as applicable, takes approximately 2 work-hours, for an estimated cost of \$170 per helicopter and \$46,240 for the U.S. fleet.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
 - a. Removing Airworthiness Directives (AD) 2021–11–17, Amendment 39–21579 (86 FR 31087, June 11, 2021); and AD 2021–11–22, Amendment 39–21584 (86 FR 31101, June 11, 2021); and
 - b. Adding the following new AD:

2024–17–01 Airbus Helicopters

Deutschland GmbH (AHD): Amendment 39–22826; Docket No. FAA–2024–0462; Project Identifier MCAI–2022–00523–R.

(a) Effective Date

This airworthiness directive (AD) is effective November 4, 2024.

(b) Affected ADs

This AD replaces AD 2021–11–17, Amendment 39–21579 (86 FR 31087, June 11, 2021), and AD 2021–11–22, Amendment 39–21584 (86 FR 31101, June 11, 2021).

Note 1 to paragraph (b): The requirements of this AD capture the latest tasks and life limits required to prevent the unsafe conditions addressed by the ADs that are identified in paragraph (b) of this AD.

(c) Applicability

This AD applies to Airbus Helicopters Deutschland GmbH (AHD) Model EC135P1, EC135P2, EC135P2+, EC135P3, EC135T1, EC135T2, EC135T2+, EC135T3, and EC635T2+ helicopters, certificated in any category.

Note 2 to paragraph (c): Helicopters with an EC135P3H designation are Model EC135P3 helicopters, and helicopters with an EC135T3H designation are Model EC135T3 helicopters.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6310, Main Rotor Control.

(e) Unsafe Condition

This AD was prompted by new and more restrictive airworthiness limitations. The FAA is issuing this AD to prevent failure of

certain parts, which if not addressed, could result in subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Required Action

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0067, dated April 13, 2022 (EASA AD 2022–0067).

(h) Exceptions to EASA AD 2022–0067

(1) Where EASA AD 2022–0067 refers to its effective date, this AD requires using the effective date of this AD.

(2) This AD does not adopt the requirements specified in paragraphs (1), (2), (4), and (5) of EASA AD 2022–0067.

(3) Where paragraph (3) of EASA AD 2022–0067 specifies "Within 12 months after the effective date of this AD, revise the approved AMP;" for this AD, replace that text with "Within 30 days after the effective date of this AD, revise the airworthiness limitations section of your existing helicopter maintenance manual or instructions for continued airworthiness and your existing approved maintenance or inspection program, as applicable."

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA AD 2022–0067 is on or before the applicable "limitations" and "associated thresholds" as incorporated by the requirements of paragraph (3) of EASA AD 2022–0067, or within 30 days after the effective date of this AD, whichever occurs later.

(5) This AD does not adopt the "Remarks" section of EASA AD 2022–0067.

(i) Provisions for Alternative Actions and Intervals

No alternative actions and associated thresholds and intervals, including life limits, are allowed for compliance with paragraph (g) of this AD unless they are approved as specified in the provisions of the "Ref. Publications" section of EASA AD 2022–0067.

(j) Special Flight Permits

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, provided no passengers are onboard.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l) of this AD. Information may be emailed to: 9-AVS-AIR-730-AMOC@faa.gov.

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

(l) Related Information

For more information about this AD, contact Joe Salameh, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-3536; email: joe.salameh@faa.gov.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2022-0067, dated April 13, 2022.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find this EASA material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Parkway, Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on September 18, 2024.

Victor Wicklund,

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

[FR Doc. 2024-22349 Filed 9-27-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-1478; Project Identifier MCAI-2023-01216-T; Amendment 39-22831; AD 2024-17-06]

RIN 2120-AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ series

airplanes. This AD was prompted by a report of cracking on the radius of the rib 0 forward longeron at a certain frame. This AD requires a one-time inspection for defects of the radius, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective November 4, 2024.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of November 4, 2024.

ADDRESSES:

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2024-1478; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

Material Incorporated by Reference:

- For BAE Systems material identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email RAPublications@baesystems.com; website baesystems.com/en/our-company/our-businesses/regional-aircraft/about-us.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195. It is also available at regulations.gov under Docket No. FAA-2024-1478.

FOR FURTHER INFORMATION CONTACT:

Todd Thompson, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206-231-3228; email todd.thompson@faa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all BAE Systems (Operations) Limited Model BAe 146 and Avro 146-RJ series airplanes. The NPRM published in the **Federal Register** on June 6, 2024 (89 FR 48348). The NPRM was prompted by AD G-2023-0006,

dated November 24, 2023 (referred to after this as the MCAI), issued by the Civil Aviation Authority (CAA), which is the aviation authority for the United Kingdom (UK). The MCAI states that an operator reported that during routine maintenance, cracking was found on the radius of the rib 0 forward longeron at frame 26. The cracking initiated close to a local blend in the radius. Failure of the rib 0 forward longeron could lead to structural failure of adjacent structure, leading to failure of the fuselage skin, and could result in rapid decompression and possible loss of the airplane.

In the NPRM, the FAA proposed to require a one-time inspection for defects of the radius, and repair if necessary. The FAA is issuing this AD to address the unsafe condition on these products.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2024-1478.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on this product. Except for minor editorial changes, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-249, dated August 25, 2023. This material specifies procedures for performing a detailed inspection for any defects (rough edges, nicks, or visible cracking) and for any evidence of blending or undercutting of the radius and flanges of the rib 0 forward longeron at frame 26, performing a high frequency eddy current (HFEC) inspection of the radius of the rib 0 forward longeron at frame 26, and obtaining and following repair instructions. This material is reasonably available because the interested parties

have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Interim Action

The FAA considers that this AD is an interim action. If final action is later identified, the FAA might consider further rulemaking then.

Costs of Compliance

The FAA estimates that this AD affects 20 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
2 work-hours × \$85 per hour = \$170	\$0	\$170	\$3,400

The FAA has received no definitive data on which to base the cost estimates for the on-condition repairs specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–17–06 BAE Systems (Operations)

Limited: Amendment 39–22831; Docket No. FAA–2024–1478; Project Identifier MCAI–2023–01216–T.

(a) Effective Date

This airworthiness directive (AD) is effective November 4, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all BAE Systems (Operations) Limited airplanes identified in paragraphs (c)(1) and (2) of this AD, certificated in any category.

(1) Model BAe 146–100A, –200A, and –300A airplanes.

(2) Model Avro 146–RJ70A, –RJ85A, and –RJ100A airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a report of cracking on the radius of the rib 0 forward longeron at frame 26. The FAA is issuing this AD to address cracking of the radius of the rib 0 forward longeron at frame 26. The unsafe condition, if not addressed, could result in failure of the rib 0 forward longeron, which could lead to failure of an adjacent structure, leading to failure of the fuselage

skin, and could result in rapid decompression and possible loss of the airplane.

(f) Compliance

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

(g) Inspection and Corrective Actions

Within 4 months after the effective date of this AD, do a visual and a high frequency eddy current inspection for defects of the radius of the rib 0 forward longeron at frame 26, in accordance with the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–249, dated August 25, 2023. If any cracking or defects are found, repair before further flight, in accordance with a method approved by the Manager, International Validation Branch, FAA; or the United Kingdom Civil Aviation Authority (UK CAA); or BAE Systems (Operations) Limited’s UK CAA’s Design Organization Approval (DOA). If the method is approved by the DOA, the approval must include the DOA-authorized signature.

(h) Reporting Requirement

Report positive inspection results at the applicable time specified in paragraph (h)(1) or (2) of this AD using the Inspection Report form in Appendix 1 of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53–249, dated August 25, 2023.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate

principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or the UK CAA; or BAE Systems (Operations) Limited's UK CAA's DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(j) Additional Information

For more information about this AD, contact Todd Thompson, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 206-231-3228; email todd.thompson@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) BAE Systems (Operations) Limited Inspection Service Bulletin ISB.53-249, dated August 25, 2023.

(ii) [Reserved]

(3) For BAE Systems material identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email RApublications@baesystems.com; website baesystems.com/en/our-company/our-businesses/regional-aircraft/about-us.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206-231-3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on August 22, 2024.

Victor Wicklund,

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

[FR Doc. 2024-22319 Filed 9-27-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-2316; Project Identifier MCAI-2024-00381-G; Amendment 39-22854; AD 2024-19-12]

RIN 2120-AA64

Airworthiness Directives; DG Aviation GmbH (Type Certificate Previously Held by DG Flugzeugbau GmbH) Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain DG Aviation GmbH (type certificate previously held by DG Flugzeugbau GmbH) Model DG-400 gliders and all Model DG-500 Elan Orion, DG-500 Elan Trainer, DG-500/20 Elan, DG-500/22 Elan, DG-500M, DG-500MB, DG-800A, DG-800B, DG-808C, DG-1000M, DG-1000S, and DG-1000T gliders. This AD was prompted by a report of a broken rod end at the upper end of the elevator pushrod in the fin (vertical tail) of a DG Aviation GmbH Model DG-300 glider. Depending on the glider model, this AD requires revising your existing glider maintenance manual to incorporate new procedures for elevator control circuit free play adjustment, performing an operational check of the free play adjustment of the automatic elevator hook-up, accomplishing corrective actions as required, and replacing the elevator pushrod end with a new part. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective October 15, 2024.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of October 15, 2024.

The FAA must receive comments on this AD by November 14, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to regulations.gov. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

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

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA-2024-2316; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For DG Aviation GmbH material identified in this AD, contact DG Aviation GmbH, Otto-Lilienthal Weg 2/ Am Flugplatz, 76646 Bruchsal, Germany; phone: +49 (0) 7251 36660-32; email: info@dg-aviation.de; website: dg-aviation.de/en/dg-flugzeugbau/contact.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available at regulations.gov under Docket No. FAA-2024-2316.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-2346; email: fred.guerin@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2024-2316; Project Identifier MCAI-2024-00381-G" at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

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 AD 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 AD, 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 AD. Submissions containing CBI should be sent to Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2024-0126, dated July 2, 2024 (EASA AD 2024-0126) (also referred to as the MCAI), to correct an unsafe condition on the following DG Aviation GmbH sailplanes (gliders):

- Model DG-100G, DG-100G ELAN, DG-200, DG-200/17, DG-200/17C, DG-300, DG-300 ELAN, DG-300 Club ELAN, DG-300 ELAN ACRO, DG-300 Club ELAN ACRO, DG-400, DG-600, DG-600/18, DG-600M, and DG-600/18 M sailplanes and powered sailplanes, all serial numbers except those equipped with l'Hotellier connections of the elevator control.
- Model DG-500/22 ELAN, DG-500 ELAN Trainer, DG-500/20 ELAN, DG-500 ELAN ORION, DG-500 M, and DG-500 MB sailplanes and powered sailplanes, all serial numbers.
- Model DG-800 A, DG-800 B, DG-808C, DG-800 LA, DG-800 S, and DG-808 S sailplanes and powered sailplanes all serial numbers.
- Model DG-1000S, DG-1000T, DG-1000M, and DG-1000E sailplanes and powered sailplanes, all serial numbers.

The MCAI states an occurrence was reported of a broken rod end at the upper end of the elevator pushrod in the fin of a Model DG-300 sailplane. It was determined that the elevator play adjustment screw was screwed in too far, which caused jamming of the roller inside the funnel. Even with higher

force, the roller could not be moved up to the front of the funnel; therefore, each time, when rigging and during normal operation, a bending force affected the rod end, causing fatigue failure. Further investigation revealed that a significant number of certain sailplane models were operated with the elevator play adjustment screw screwed in too far. It was also determined that because of its location, the elevator pushrod end damage could not be detected using visual or non-destructive testing to identify fatigue cracks. This condition, if not detected and corrected, could lead to loss of pitch control of the (powered) sailplane. Due to the similarity of design, all DG sailplanes in the applicability of the MCAI (if equipped with automatic hook-up) could be affected by the unsafe condition.

The MCAI requires a one-time operational check of the free play adjustment of the automatic elevator hook-up and, depending on the findings, replacement of the affected parts, and for a certain group of (powered) sailplanes, mandatory replacement of the rod end. The MCAI also requires following revised applicable Maintenance Manual tasks.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA-2024-2316.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed the following material that specifies revising your existing glider maintenance manual and specifies procedures for accomplishing an operational check of the free play of the automatic elevator hook-up and installing new elevator pushrod ends and new elevator rollers and adjusting the free play, as applicable. These documents are distinct since they apply to different glider models.

- DG Aviation GmbH Technical Note No. DG-SS-09, Doc. No. TMDG-SS-09 FE-29-01, Issue 01.f, dated March 5, 2024, for Model DG-400 gliders.
- DG Aviation GmbH Technical Note No. 500/17, Doc. No. TM500-17 FE-29-01, Issue 01.c, dated March 5, 2023, for Model DG-500 gliders.
- DG Aviation GmbH Technical Note No. 800/50, Doc. No. TM800-50 FE-29-01, Issue 01.c, dated March 5, 2024, for Model DG-800 gliders.
- DG Aviation GmbH Technical Note No. 1000/50, Doc. No. TM1000-50 FE-29-01, Issue 01.c, dated March 4, 2024, for Model DG-1000 gliders.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and material referenced above. The FAA is issuing this AD after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in the material already described, except as discussed under "Differences Between this AD and the MCAI."

Differences Between This AD and the MCAI

The MCAI applies to Model DG-100G, DG-100G ELAN, DG-200, DG-200/17, DG-200/17C, DG-300, DG-300 ELAN, DG-300 Club ELAN, DG-300 ELAN ACRO, DG-300 Club ELAN ACRO, DG-600, DG-600/18, DG-600M, DG-600/18 M, DG-800 LA, DG-800 S, DG-808 S, and DG-1000E gliders, but this AD does not because these models do not have an FAA type certificate.

Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures 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 providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because operating a glider with the elevator play adjustment screw screwed in too far could lead to a loss of pitch control of the glider and loss of the ability to control the glider in flight or during landing. The FAA has determined that certain gliders will need an operational check within 3 months and immediate action if any discrepancy is found and certain other

gliders will need replacement of an affected part within 3 months after the effective date of this AD. This compliance time is shorter than the time necessary for the public to comment and for publication of the final rule.

Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d)

for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because the FAA has determined that it has good

cause to adopt this rule without prior notice and comment, RFA analysis is not required.

Costs of Compliance

The FAA estimates that this AD affects 101 gliders of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise glider maintenance manual (Group 1 and Group 2 gliders).	1 work-hour × \$85 per hour = \$85.	\$0	85	8,585.
Perform operational check of the free play adjustment of the automatic elevator hook-up (Group 1 and Group 2 gliders).	1 work-hour × \$85 per hour = \$85.	0	85	8,585.
Replace the elevator pushrod end (Group 1 gliders)	2 work-hours × \$85 per hour = \$170.	100	270	7,020 (26 gliders).

The FAA estimates the following costs to do any necessary elevator roller replacement (both Group 1 and Group 2

gliders) or elevator rod replacement (Group 2 gliders) that would be required based on the results of the operational

check. The agency has no way of determining the number of gliders that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace the elevator roller with a new one and adjust free play (Group 1 and Group 2 gliders).	2 work-hours × \$85 per hour = \$170.	150	320
Replace the elevator pushrod end (Group 2 gliders)	2 work-hours × \$85 per hour = \$170.	100	270

Authority for This Rulemaking

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

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

Regulatory Findings

This AD will not have federalism implications under Executive Order

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

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

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2024–19–12 DG Aviation GmbH (Type Certificate Previously Held by DG Flugzeugbau GmbH): Amendment 39–22854; Docket No. FAA–2024–2316; Project Identifier MCAI–2024–00381–G.

(a) Effective Date

This airworthiness directive (AD) is effective October 15, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the following:

(1) DG Aviation GmbH (type certificate previously held by DG Flugzeugbau GmbH) Model DG–400 gliders, all serial numbers, certificated in any category, except those

with l'Hotellier connections of the elevator control installed; and

(2) DG Aviation GmbH (type certificate previously held by DG Flugzeugbau GmbH) Model DG-500 Elan Orion, DG-500 Elan Trainer, DG-500/20 Elan, DG-500/22 Elan, DG-500M, DG-500MB, DG-800A, DG-800B, DG-808C, DG-1000M, DG-1000S, and DG-1000T gliders, all serial numbers; certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC) Code 2730, Elevator Control System.

(e) Unsafe Condition

This AD was prompted by a report of a broken rod end at the upper end of the elevator pushrod in the fin (vertical tail) of a DG Aviation GmbH DG-300 glider. The FAA is issuing this AD to detect and address the unsafe condition. The unsafe condition, if not addressed, could result in loss of pitch control of the glider.

(f) Compliance

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

(g) Definitions

For the purposes of this AD the definitions in paragraphs (g)(1) through (5) of this AD apply.

(1) The “applicable technical note for your glider” is:

(i) *Model DG-400 gliders*: DG Aviation GmbH Technical Note No. DG-SS-09, Doc. No. TMDG-SS-09 FE-29-01, Issue 01.f, dated March 5, 2024.

(ii) *Model DG-500 gliders*: DG Aviation GmbH Technical Note No. 500/17, Doc. No. TM500-17 FE-29-01, Issue 01.c, dated March 5, 2023.

(iii) *Model DG-800 gliders*: DG Aviation GmbH Technical Note No. 800/50, Doc. No. TM800-50 FE-29-01, Issue 01.c, dated March 5, 2023.

(iv) *Model DG-1000 gliders*: DG Aviation GmbH Technical Note No. 1000/50, Doc. No. TM1000-50 FE-29-01, Issue 01.c, dated March 4, 2024.

(2) A “new elevator pushrod end” is an elevator pushrod with zero hours time-in-service (TIS) having a part number specified in the applicable technical note for your glider that has never been installed on any glider.

(3) A “new elevator roller” is an elevator roller with zero hours TIS having a part number specified in the applicable technical note for your glider that has never been installed on any glider.

(4) *Group 1 gliders*: Model DG-400 gliders.

(5) *Group 2 gliders*: Model DG-500 Elan Orion, DG-500 Elan Trainer, DG-500/20 Elan, DG-500/22 Elan, DG-500M, DG-500MB, DG-800A, DG-800B, DG-808C, DG-1000M, DG-1000S, and DG-1000T gliders.

(h) Required Actions

(1) *Group 1 and Group 2 gliders*: Within 3 months after the effective date of this AD, revise your existing glider maintenance manual in accordance with paragraph 1 of the Instructions in the applicable technical note for your glider.

(2) *Group 1 and Group 2 gliders*: Within 3 months after the effective date of this AD, accomplish an operational check of the free play adjustment of the automatic elevator hook-up in accordance with paragraph 2 of the Instructions in the applicable technical note for your glider.

(i) *Group 1 gliders*: If, during the operational check required by paragraph (h)(2) of this AD, any discrepancy as described in paragraph 2 of the Instructions in the applicable technical note for your glider is detected, before further flight, replace the elevator roller with a new elevator roller and adjust free play in accordance with paragraph 2 of the Instructions in the applicable technical note for your glider. Where the technical note for your glider specifies to “mark the removed rod end as [an] unserviceable part” this AD requires “removing that elevator pushrod end from service.” Where the technical note for your glider specifies “If a new rod end is needed, order it immediately at DG” this AD only requires “replacing the elevator pushrod end with a new elevator pushrod end.”

(ii) *Group 2 gliders*: If, during the operational check required by paragraph (h)(2) of this AD, any discrepancy, as described in paragraph 2 of the Instructions of the applicable technical note for your glider is detected, before further flight, replace either the elevator pushrod end or elevator roller or both, as applicable, with a new elevator pushrod end and new elevator roller and adjust the free play in accordance with paragraph 2 of the Instructions in the applicable technical note for your glider. Where the technical note for your glider specifies to “mark the removed rod end as [an] unserviceable part” this AD requires “removing that elevator pushrod end from service.” Where the technical note for your glider specifies “If a new rod end is needed, order it immediately at DG” this AD only requires “replacing the elevator pushrod end with a new elevator pushrod end.”

(3) *Group 1 gliders*: Within 3 months after the effective date of this AD, replace the elevator pushrod end with a new elevator pushrod end in accordance with paragraph 2 of the Instructions in the applicable technical note for your glider.

(i) Reporting Not Required

Although the Remarks section of the material specified in paragraph (g)(1) of this AD states to report “any damaged parts, false adjustment of the elevator control, or false installation of parts” and “If you find that airworthiness may be affected this has to be reported to the competent authority,” this AD does not require those actions.

(j) Special Flight Permit

Special flight permits are prohibited.

(k) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly

to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(l) Additional Information

For more information about this AD, contact Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-2346; email: fred.guerin@faa.gov.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) DG Aviation GmbH Technical Note No. DG-SS-09, Doc. No. TMDG-SS-09 FE-29-01, Issue 01.f, dated March 5, 2024.

(ii) DG Aviation GmbH Technical Note No. 500/17, Doc. No. TM500-17 FE-29-01, Issue 01.c, dated March 5, 2023.

(iii) DG Aviation GmbH Technical Note No. 800/50, Doc. No. TM800-50 FE-29-01, Issue 01.c, dated March 5, 2024.

(iv) DG Aviation GmbH Technical Note No. 1000/50, Doc. No. TM1000-50 FE-29-01, Issue 01.c, dated March 4, 2024.

(3) For DG Aviation GmbH material identified in this AD, contact DG Aviation GmbH, Otto-Lilienthal Weg 2/Am Flugplatz, 76646 Bruchsal, Germany; phone: +49 (0) 7251 36660-32; email: info@dg-aviation.de; website: dg-aviation.de/en/dg-flugzeugbau/contact.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on September 19, 2024.

Steven W. Thompson,

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

[FR Doc. 2024-22321 Filed 9-25-24; 4:15 pm]

BILLING CODE 4910-13-P

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

[Docket No. FAA–2024–2061; Amendment No. 71–56]

RIN 2120–AA66

Airspace Designations; Incorporation by Reference Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, administrative correction.

SUMMARY: This action incorporates certain airspace designation amendments into FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024, for incorporation by reference.

DATES: Effective date 0901 UTC September 30, 2024. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11J, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at www.faa.gov/air_traffic/publications/. You may also contact the Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Sarah A. Combs, Rules and Regulations Group, Policy Directorate, Federal Aviation Administration, 600 Independence Avenue SW, Washington, DC 20597; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with

prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it makes the necessary updates for airspace areas within the National Airspace System.

History

FAA Order JO 7400.11, Airspace Designations and Reporting Points, incorporated by reference in 14 CFR 71.1, is published yearly. Amendments referred to as “effective date straddling amendments” were published under Order JO 7400.11H (dated August 11, 2023, and effective September 15, 2023) but became effective under Order JO 7400.11J (dated July 31, 2024, and effective September 15, 2024). This action incorporates these rules into the current FAA Order JO 7400.11J.

Accordingly, as this is an administrative correction to update final rule amendments into FAA Order JO 7400.11J, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Also, to bring these rules and legal descriptions current, I find that good cause exists, under 5 U.S.C. 553(d), for making this amendment effective in less than 30 days.

Incorporation by Reference

This document amends FAA Order JO 7400.11J, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. FAA Order JO 7400.11J is publicly available as listed in the **ADDRESSES** section of this document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by incorporating certain final rules into the current FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, which are depicted on aeronautical charts.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a

“significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Corrections

1. For Docket No. FAA–2024–1088; Airspace Docket No. 24–AWA–2 (89 FR 57728; July 16, 2024).

Correction

a. In the final rule amending 14 CFR part 71 published on July 16, 2024 (89 FR 57728) for each instance of the words “FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

b. In the final rule amending 14 CFR part 71 published on July 16, 2024 (89 FR 57728) for each instance of the words “FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

c. In the final rule amending 14 CFR part 71 published on July 16, 2024 (89 FR 57728) for each instance of the words “FAA Order JO 7400.11H” remove those words and add in their place “FAA Order JO 7400.11J”.

2. For Docket No. FAA–2024–0383; Airspace Docket No. 24–ASO–2 (89 FR 58262, July 18, 2024; corrected 89 FR 66545, August 16, 2024).

Correction

a. In the final rule amending 14 CFR part 71 published on July 18, 2024 (89 FR 58262; corrected 89 FR 66545, August 16, 2024) for each instance of the words “FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

79432 Federal Register / Vol. 89, No. 189 / Monday, September 30, 2024 / Rules and Regulations

Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

b. In the final rule amending 14 CFR part 71 published on August 30, 2024 (89 FR 70474; corrected 89 FR 76713; September 19, 2024) for each instance of the words “FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

c. In the final rule amending 14 CFR part 71 published on August 30, 2024 (89 FR 70474; corrected 89 FR 76713; September 19, 2024) for each instance of the words “FAA Order JO 7400.11H” remove those words and add in their place “FAA Order JO 7400.11J”.

27. For Docket No. FAA–2024–0184; Airspace Docket No. 23–AWP–69 (89 FR 72981; September 9, 2024).

Correction

a. In the final rule amending 14 CFR part 71 published on September 9, 2024 (89 FR 72981) for each instance of the words “FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

b. In the final rule amending 14 CFR part 71 published on September 9, 2024 (89 FR 72981) for each instance of the words “FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

c. In the final rule amending 14 CFR part 71 published on September 9, 2024 (89 FR 72981) for each instance of the words “FAA Order JO 7400.11H” remove those words and add in their place “FAA Order JO 7400.11J”.

28. For Docket No. FAA–2024–1119; Airspace Docket No. 24–ACE–2 (89 FR 73272; September 10, 2024).

Correction

a. In the final rule amending 14 CFR part 71 published on September 10, 2024 (89 FR 73272) for each instance of the words “FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place

“FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

b. In the final rule amending 14 CFR part 71 published on September 10, 2024 (89 FR 73272) for each instance of the words “FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

c. In the final rule amending 14 CFR part 71 published on September 10, 2024 (89 FR 73272) for each instance of the words “FAA Order JO 7400.11H” remove those words and add in their place “FAA Order JO 7400.11J”.

29. For Docket No. FAA–2024–2119; Airspace Docket No. 24–ASW–15 (89 FR 73273; September 10, 2024).

Correction

a. In the final rule amending 14 CFR part 71 published on September 10, 2024 (89 FR 73273) for each instance of the words “FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

b. In the final rule amending 14 CFR part 71 published on September 10, 2024 (89 FR 73273) for each instance of the words “FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

c. In the final rule amending 14 CFR part 71 published on September 10, 2024 (89 FR 73273) for each instance of the words “FAA Order JO 7400.11H” remove those words and add in their place “FAA Order JO 7400.11J”.

30. For Docket No. FAA–2024–1556; Airspace Docket No. 24–ASW–12 (89 FR 74131; September 12, 2024).

Correction

a. In the final rule amending 14 CFR part 71 published on September 12, 2024 (89 FR 74131) for each instance of the words “FAA Order JO 7400.11H, Airspace Designations and Reporting Points, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace

Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

b. In the final rule amending 14 CFR part 71 published on September 12, 2024 (89 FR 74131) for each instance of the words “FAA Order JO 7400.11H, dated August 11, 2023, and effective September 15, 2023” remove those words and add in their place “FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024”.

c. In the final rule amending 14 CFR part 71 published on September 12, 2024 (89 FR 74131) for each instance of the words “FAA Order JO 7400.11H” remove those words and add in their place “FAA Order JO 7400.11J”.

Issued in Washington, DC, on September 24, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–22253 Filed 9–27–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 171

[Public Notice: 12539]

RIN 1400–AF86

Access to Information; Privacy Act Provisions

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State is removing Personality Index to the Central Foreign Policy Records, State-29, from the list of system of records notices (SORNs) for which Privacy Act exemptions are claimed. The Department has determined that the personality index search tool covered by this SORN was disposed of when the State Archiving System (SAS) was decommissioned in May 2020, and this SORN has been rescinded.

DATES: rule is effective on September 30, 2024.

FOR FURTHER INFORMATION CONTACT:

Timothy J. Kootz, Senior Agency Official for Privacy; U.S. Department of State; Office of Global Information Services, A/GIS; Room 4534, 2201 C St., NW; Washington, DC 20520 or by calling on (202) 304 5979.

SUPPLEMENTARY INFORMATION: The System of Records Notice (SORN) State-29, Personality Index to the Central Foreign Policy Records, has been rescinded. See 89 FR 43974 (May 20, 2024).

Pursuant to 5 U.S.C. 552a (k)(1), (k)(2), (k)(3), and (k)(7), records in State-29 were exempted from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). This rulemaking amends 22 CFR 171.26 by removing STATE-29 from the lists of exemptions.

Regulatory Analysis

This rulemaking is published as a final rule with immediate effect due to the good cause exemption of the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B) and 553(d). Since State-29 is no longer a SORN, it cannot be listed in the lists of SORNs exempted from the Privacy Act. Therefore, the Department finds good cause to promulgate this

rulemaking, with immediate effect (5 U.S.C. 553(d), and finds that public comment on this rulemaking would be unnecessary.

List of Subjects in 22 CFR Part 171

Privacy.

For the reasons stated in the preamble, 22 CFR part 171 is amended as follows:

PART 171—PUBLIC ACCESS TO INFORMATION

■ 1. The authority citation for 22 CFR part 171 continues to read as follows:

Authority: 22 U.S.C. 2651a; 5 U.S.C. 552, 552a; E.O. 12600 (52 FR 23781); Pub. L. 114–

185; Pub. L. 95–521, 92 Stat. 1824 (codified as amended at 5 U.S.C. Ch. 131); 5 CFR part 2634.

■ 2. Section 171.26 is amended by revising paragraphs (b)(1), (2), (3) and (7) as follows:

§ 171.26 Exemptions.

* * * * *

(b) * * *

(1) *Exempt under 5 U.S.C. 552a(k)(1).* Records contained within the following systems of records are exempt under this section to the extent that they are subject to the provisions of 5 U.S.C. 552(b)(1).

TABLE 2 TO PARAGRAPH (b)(1)

Title	No.
Board of Appellate Review Records	STATE-02.
Congressional Correspondence	STATE-43.
Congressional Travel Records	STATE-44.
Coordinator for the Combating of Terrorism Records	STATE-06.
External Research Records	STATE-10.
Extradition Records	STATE-11.
Family Advocacy Case Records	STATE-75.
Foreign Assistance Inspection Records	STATE-48.
Human Resources Records	STATE-31.
Information Access Programs Records	STATE-35.
Intelligence and Research Records	STATE-15.
International Organizations Records	STATE-17.
Law of the Sea Records	STATE-19.
Legal Case Management Records	STATE-21.
Munitions Control Records	STATE-42.
Office of Inspector General Investigation Management System	STATE-53.
Overseas Citizens Services Records	STATE-05.
Passport Records	STATE-26.
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE-28.
Personnel Payroll Records	STATE-30.
Records of Domestic Accounts Receivable	STATE-23.
Records of the Office of the Assistant Legal Adviser for International Claims and Investment Disputes	STATE-54.
Records of the Office of White House Liaison	STATE-34.
Refugee Records	STATE-59.
Risk Analysis and Management Records	STATE-78.
Rover Records	STATE-41.
Security Records	STATE-36.
Visa Records	STATE-39.

(2) *Exempt under 5 U.S.C. 552a(k)(2).* Records contained within the following systems of records are exempt under

this section to the extent that they consist of investigatory material compiled for law enforcement purposes,

subject to the limitations set forth in 5 U.S.C. 552a(k)(2).

TABLE 3 TO PARAGRAPH (b)(2)

Title	No.
Board of Appellate Review Records	STATE-02.
Coordinator for the Combating of Terrorism Records	STATE-06.
Extradition Records	STATE-11.
Family Advocacy Case Records	STATE-75.
Foreign Assistance Inspection Records	STATE-48.
Garnishment of Wages Records	STATE-61.
Information Access Program Records	STATE-35.
Intelligence and Research Records	STATE-15.
Munitions Control Records	STATE-42.
Office of Foreign Missions Records	STATE-81.
Office of Inspector General Investigation Management System	STATE-53.
Overseas Citizens Services Records	STATE-05.

TABLE 3 TO PARAGRAPH (b)(2)—Continued

Title	No.
Passport Records	STATE–26.
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE–28.
Risk Analysis and Management Records	STATE–78.
Security Records	STATE–36.
Visa Records	STATE–39.

(3) *Exempt under 5 U.S.C. 552a(k)(3).*
Records contained within the following systems of records are exempt under

this section to the extent that they are maintained in connection with

providing protective services pursuant to 18 U.S.C. 3056.

TABLE 4 TO PARAGRAPH (b)(3)

Title	No.
Extradition Records	STATE–11.
Information Access Programs Records	STATE–35.
Intelligence and Research Records	STATE–15.
Overseas Citizens Services Records	STATE–05.
Passport Records	STATE–26.
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE–28.
Security Records	STATE–36.
Visa Records	STATE–39.

* * * * *

(7) *Exempt under 5 U.S.C. 552a(k)(7).*
Records contained within the following systems of records are exempt under

this section to the extent that they consist of evaluation material used to determine potential for promotion in the

armed services, but only to the extent that such disclosure would reveal the identity of a confidential informant.

TABLE 8 TO PARAGRAPH (b)(7)

Title	No.
Human Resources Records	STATE–31.
Information Access Programs Records	STATE–35.
Overseas Citizens Services Records	STATE–25.
Personality Cross-Reference Index to the Secretariat Automated Data Index	STATE–28.
Security Records	STATE–36.

Timothy J. Kootz,
Deputy Assistant Secretary, Global Information Services (A/GIS), Department of State.
[FR Doc. 2024–22297 Filed 9–27–24; 8:45 am]
BILLING CODE 4710–24–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

[SATS No. OH–259–FOR; Docket ID: OSM–2017–0002; S1D1S SS08011000 SX064A000 234S180110; S2D2S SS08011000 SX064A000 23XS501520]

Ohio Abandoned Mine Land Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSMRE), are approving an amendment to the Ohio Abandoned Mine Land (AML) Reclamation Plan (Ohio Plan or Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Ohio proposed to amend its existing plan to reflect statutory, regulatory, policy, procedural, and organizational changes made since it was originally approved in 1982. Ohio also submitted relevant statutory provisions amended by the State legislature in 2016, as well as draft statutory revisions regarding what land and water resources are eligible for Federal grant funds and other proposed amendments for consistency with SMCRA, for OSMRE’s review and consideration.

DATES: Effective October 30, 2024.

FOR FURTHER INFORMATION CONTACT:
Thomas Koptchak, Field Office Director, Pittsburgh Field Office, Office of Surface Mining Reclamation and Enforcement, Telephone: (814) 421–1438, email: tkoptchak@osmre.gov.

SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Plan
- II. Submission of the Amendment
- III. OSMRE’s Findings
- IV. Summary and Disposition of Comments
- V. OSMRE’s Decision
- VI. Statutory and Executive Order Reviews

I. Background on the Ohio Program

The AML Reclamation Program was established by Title IV of the Act (30 U.S.C. 1201 *et seq.*) in response to concerns over extensive environmental damage caused by past coal mining activities. The program is funded, in part, by a reclamation fee collected on each ton of coal that is produced. The money collected is used to finance the reclamation of abandoned coal mines

and for other authorized activities. Section 405 of the Act allows States and Tribes to assume exclusive responsibility for reclamation activity within the State or on Tribal lands if they develop, and submit to the Secretary of the Interior for approval, a program (often referred to as a plan) for the reclamation of abandoned coal mines. Section 405 also requires that each State with an abandoned mine reclamation program must have an approved State regulatory program pursuant to section 503 of the Act.

On August 10, 1982, the Secretary of the Interior approved the Ohio Plan. You can find background information on the Ohio Plan, including the Secretary's findings, the disposition of comments, and conditions of approval of the Ohio Plan in the August 10, 1982, **Federal Register** (47 FR 34719). You can also find later actions concerning the Ohio Plan and Plan amendments at 30 CFR 935.25.

II. Submission of the Amendment

By letter dated March 17, 2017 (Administrative Record No. OH-2195-01), and in accordance with 30 CFR 884.15(a), Ohio sent us an amendment to its Plan on its own initiative. By letter dated September 15, 2017 (Administrative Record No. OH-2195-04), Ohio provided a revised amendment to describe the proposed revisions more clearly. By letter dated September 18, 2018 (Administrative Record No. OH-2195-06), Ohio submitted an updated amendment with a revision to section XI of its Plan.

We announced receipt of the proposed amendment in the May 10, 2019, **Federal Register** (84 FR 20599). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on June 10, 2019. We received a single comment that was not germane to the Plan amendment, and, therefore, we have not provided a response.

III. OSMRE's Findings

The following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15. We are approving the amendment as described below. Any revisions that we do not specifically discuss below concerning minor wording or editorial changes can be found in the full text of the Plan amendment available at www.regulations.gov. OSMRE also notes

that we are separately reviewing State reclamation plans to identify any components that may need to be addressed in light of the Infrastructure Investment and Jobs Act, more commonly referred to as the Bipartisan Infrastructure Law (BIL) (Pub. L. 117-58). That review is ongoing and not reflected in our decision on Ohio's amendment here.

*Amended Statutory Language*¹

On December 19, 2016, Ohio's Legislature amended the statutory language at sections 1515.27, 1513.28, 1513.30, 1513.31, 1513.32, and 1513.37 of the Ohio Revised Code (ORC) regarding the process of determining site eligibility for reclamation activities. See 2016 Sub. H.B. No. 471. The updated language eliminated references to the sunsetted Council on Unreclaimed Strip Mined Lands and designated the chief of the Division of Mineral Resource Management (DMRM) as the entity responsible for the prioritization and approval process of proposed projects eligible for the unreclaimed lands funds. This updated language reflects administrative changes made over time to the agency authorized to administer the State's program for regulating surface coal mining and reclamation. The updated statutory language is in accordance with SMCRA and the Federal requirements of 30 CFR subchapter R, which does not proscribe a particular State administrative structure responsible for prioritizing and approving proposed projects. Therefore, we are approving the updated statutory language of the ORC as an amendment to the Ohio Plan.

Draft Statutory Amendments

Ohio's amendment also includes additional draft statutory changes to ORC 1513.37 to clarify and elaborate upon the priority by which land and water resources are eligible to receive Federal grants for reclamation of abandoned mine lands in accordance with the 2006 SMCRA amendments. Ohio's draft statutory language at ORC

¹ Generally, States do not request that OSMRE accept changes to AML statutes or regulations as amendments to an AML Plan, which is a narrative document that usually is not in the form of a statute or regulation. However, there is no provision in SMCRA or the Federal regulations governing submission and approval of AML Plans and amendments thereto that prohibits a State from including statutes or regulations in conjunction with its AML Plan. Therefore, when we approve a change or proposed change to a statutory provision in this rulemaking, we mean that we are approving that provision as an amendment to the AML Plan. For clarity and ease of reference, we recommend that Ohio submit changes to its AML Plan narrative document that are consistent with these statutory amendments.

1513.37(B) revises several aspects of the priority criteria. The number of priority categories is reduced from six to three. The highest priority categories (Priority 1 and 2) are expanded to include the land and water resources adjacent to a prioritized site and the term "general welfare" has been struck from those priorities. Additionally, Ohio drafted revisions to the specifications of the priority categories to allow lower priority projects (Priority 3) to be initiated before the completion of higher priority projects (Priority 1 or 2), provided that the expenditure is done at eligible AML sites adjacent to higher priority projects (Priority 1 or 2).

The SMCRA amendments were signed into law on December 20, 2006, as part of the Tax Relief and Health Care Act of 2006. See Public Law 109-432. The 2006 amendments substantially modified the AML reclamation program in Title IV of SMCRA, including, but not limited to, removing previous priorities 4 and 5 and striking the term "general welfare" as components of priorities 1 and 2. See U.S.C. 1233(a). In addition, the 2006 amendments also permitted the initiation of Priority 3 reclamation projects before completing all Priority 1 and 2 projects if the Priority 3 reclamation is performed in conjunction with a Priority 1 or 2 project. See 30 U.S.C. 1232(g)(7). We note that our guidelines generally direct that reclamation of lower priority projects should not begin until the higher priority projects are at least in the process of being reclaimed. However, consistent with the 2006 amendments and associated changes to the implementing regulations, we also recognize that it can be economically and logistically advantageous to address lower priority problems as part of abating higher priority problems. Allowing a State to reclaim Priority 3 problems (e.g., spoil ridges) as part of abating Priority 1 or 2 hazards (e.g., highwalls) leverages its limited funding to get the best reclamation at a lower cost. This approach also generally reclaims more AML problems overall, and in some cases can more effectively abate and reclaim hazards, while reducing the cost of reclaiming the higher and lower priority problems.

Ohio offers draft statutory changes at ORC 1513.37(C)(3) regarding the eligibility of lands and waters affected by past coal mining. The Federal requirements at 30 CFR 874.14 were revised in 2008 (73 FR 67576), consistent with the 2006 SMCRA amendments, to remove the 30 percent limitation on grant funds that States and Indian Tribes could expend on water supply affected by coal mining. Ohio's

draft language at ORC 1513.37(C)(3) thus identifies the protection, repair, replacement, construction, or enhancement of facilities sourced by waters adversely affected by coal mining practices as projects eligible for funding.

Ohio offers draft statutory changes at ORC 1513.37(C)(5) regarding the inventory of eligible lands and waters maintained by the Secretary of the Interior. The draft language allows for the chief to offer amendments to update the inventory as it applies to eligible lands under the jurisdiction of Ohio. This would allow Ohio to reclassify certain current Priority 3 lands and waters as Priority 1 or Priority 2 expenditures, in line with the ORC 1513.37 draft statutory language discussed above, which reflects the 2006 SMCRA amendments.

Ohio also offers draft revisions at ORC 1513.37(E)(3) to remove the 50% match requirement for watershed groups requesting grant funding from the Acid Mine Drainage (AMD) Abatement and Treatment Fund for remediation projects. Ohio considers these watershed groups essential to AMD treatment and abatement projects, in part because they are often able to complete remediation projects at a fraction of the cost compared to DMRM staff or environmental consultants. The groups are typically citizen-based charitable organizations that do not have the funding for the 50% match currently required to receive grant money. Ohio recognizes the importance of these groups and the essential work that they do, primarily in distressed counties in Ohio. By eliminating the matching requirement, Ohio is removing a burden on the watershed groups that might prevent them from participating in the program. There is no Federal law or condition of the Federal award that requires a matching grant funds from subaward recipients.

These statutory revisions were not enacted through the legislative bills Ohio identified in its submissions (2016 Sub. H.B. No. 471 and 2017 Am. Sub. H.B. No. 49) and are not currently part of the Ohio Revised Code. To the extent Ohio proceeds to enact these revisions, we find the draft statutory language meets the requirements of SMCRA and 30 CFR subchapter R. These revisions are largely reflected in Ohio's revised AML Plan, which we are approving. However, should Ohio actually enact statutory changes that require further revision to its Plan, the Plan revisions must be submitted for our review in accordance with 30 CFR part 884.

Revisions to Ohio's AML Plan

Ohio is updating and replacing its AML Plan with a version that is structured similarly to the Federal AML plan content requirements for States found at 30 CFR 884.13. Ohio has made multiple editorial changes for brevity, structural alignment with the Federal requirements, consistency with the 2006 changes to SMCRA under the Tax Relief and Health Care Act of 2006 (Pub. L. 109–432) and the associated changes to the implementing Federal regulations on November 14, 2008 (73 FR 67576), and the ORC. In order to simplify the Plan, the new version omits documentation that is either incorporated by reference, is no longer applicable to Ohio's AML Program, was replaced by updated information, or was never required to be included in the Plan. We also understand that additional revision and/or supplemental material concerning the Governor's letter, the Legal Opinion, and other components of the plan referenced below may be submitted in the near future to encompass components of the BIL and section 801 of the Consolidated Appropriations Act, 2023 (commonly referred to as the Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines (STREAM) Act) (Pub. L. 117–328). We are not addressing those various potential revisions in this review but are aware that they may generate additional plan amendments in the near future.

1. Letter of Designation From the Governor

Ohio's revised plan references the Governor's letters, dated November 21, 1979, and amended February 3, 1981, designating the Department of Natural Resources, Division of Reclamation as the agency authorized to administer the State's program for regulating surface coal mining and reclamation, and for receiving and administering reclamation grants under 30 CFR part 886. These letters were submitted and approved as part of the original State reclamation plan and are consistent with the Federal requirements of 30 CFR 884.13(a)(1). Therefore, we are approving their inclusion. However, the Division of Mines and Reclamation was combined with the Division of Oil and Gas (H.B. 601, effective June 14, 2000) to create the DMRM in the Department of Natural Resources. As a result of these changes, the 1979 and 1981 Governor's letters should be replaced with an updated version to designate DMRM as the agency responsible for the AML program, or a supplemental submission

added to the Plan providing that additional context.

2. Legal Opinion

Ohio's revised plan references the legal opinion from the State Attorney General, dated October 4, 1979, verifying that the Division of Reclamation had sufficient legal authority under Ohio State law to conduct the State reclamation program in accordance with the requirements of Title IV of SMCRA. This legal opinion was submitted and approved as part of the original State reclamation plan and is consistent with the Federal requirements of 30 CFR 884.13(a)(2). Therefore, we are approving its inclusion. However, the Division of Mines and Reclamation was combined with the Division of Oil and Gas (H.B. 601, effective June 14, 2000) to create the DMRM in the Department of Natural Resources. As a result of this change, the legal opinion should be replaced with an updated version that reflects the designated agency, DMRM, as the agency responsible for the AML program and the agency that has the authority under State law to conduct the program in accordance with the requirements of Title IV of SMCRA, or Ohio should add a supplemental submission to the Plan providing that additional context.

3. Policies and Procedures

Federal regulations at 30 CFR 884.13(a)(3) require a description of the policies and procedures to be followed by the designated agency in conducting a Title IV reclamation program. Parts IV through XI of Ohio's revised plan, as discussed in more detail below, provide descriptions of, and legal citations for, these requirements.

Part IV, Purpose of the Program, provides a general overview of Ohio's AML Program. Specifically, Ohio's revised plan identifies inadequately reclaimed mine sites as risks to public safety and environmental quality and describes the goal of the revised plan as being to continue to reclaim land and water resources affected by coal mining, in accordance with State and Federal law and rules. This section is consistent with the requirements of 30 CFR 884.13(a)(3)(i).

Part V, Ranking Eligible Lands and Waters, provides the relevant eligibility and prioritization criteria to assess potential project areas for reclamation. These criteria are based on the updated requirements of section 403 and 404 of SMCRA, as well as several additional factors Ohio uses to assess and prioritize potential project areas for reclamation. Consistent with section 404 of SMCRA,

coal lands and waters are deemed eligible if they were mined for coal or affected by such mining, waste banks, coal processing, or other coal mining processes, or abandoned/left in an inadequate state as outlined in this section. As a general matter, the ranking of eligible projects will be conducted in the following order of priority: emergency projects, as approved by us under section 410 of SMCRA; projects protecting public health, safety and property from extreme danger of adverse effects of coal mining practices (Priority 1); projects protecting public health and safety from adverse effects of coal mining (Priority 2); and projects restoring land, waters, and the environment previously degraded by coal mining, for natural resource conservation and restoration (Priority 3). By providing the specific criteria for the eligibility and ranking projects to be funded, Ohio's revised Plan is consistent with the requirements of 30 CFR 884.13(a)(3)(ii).

This section of the revised plan also includes guidelines for the annual grant application to be submitted to us as specified in section 405(f) and (h) of SMCRA and 30 CFR part 886; policies that address set-aside funds in accordance with section 402(g)(6) of SMCRA (30 U.S.C. 1232(g)(6)) and 30 CFR part 876; policies that address water supply projects in accordance with section 402(g)(1) and (5) of SMCRA (30 U.S.C. 1232(g)(1)–(5)); procedures for reclamation projects receiving less than 50% government funding, including adopting by reference 30 CFR part 707; and policies for handling emergency projects.

Part VI, Coordination with Other Agencies, and Part VII, Coordination with OSMRE, describe Ohio's coordination with various Federal and State agencies, watershed groups, local governments, universities, and others in order to achieve mutual reclamation goals. Additionally, Ohio will consult with the relevant State and Federal regulatory agencies as necessary to ensure all required permissions are in order prior to project commencement. These sections are consistent with the requirements of 30 CFR 884.13(a)(3)(iii).

Part VIII, Policy for Land Acquisition, Management, and Disposition, describes the acquisition, management, and disposal of lands and waters adversely affected by past coal mining practices. Specifically, if it has been determined by both Ohio and us that acquisition of land is required for successful reclamation, the State will comply with 30 CFR part 879 regarding the acquisition, management, and disposal of the lands and waters. This section is

consistent with the requirements of 30 CFR 884.13(a)(3)(iv).

Ohio's revised plan includes sections regarding work on private lands. In Part IX, Policy Regarding Reclamation on Private Lands, Ohio establishes policy provisions, including the completion of appraisals and filing of liens, for the reclamation projects on private land, in accordance with 30 CFR part 887. Part X, Policy Regarding Rights of Entry, describes Ohio's policies and procedures regarding rights of entry to lands or property, which are in accordance with 30 CFR part 877. These sections are consistent with the requirements of 30 CFR 884.13(a)(3)(v) and (vi).

Part XI, Public Participation, indicates that Ohio is opting to use our public participation process, as outlined in 30 CFR 884.14(a), for State Reclamation Plan amendments and updates rather than the public participation process established during the development and approval of the original State Reclamation Plan.

Ohio's revised plan describes that opportunities for public participation and involvement in specific AML projects will be provided during the development and implementation of the annual grant application and performance agreement between us and DMRM. In addition, Ohio provides that DMRM maintains ongoing outreach with local governments and businesses regarding building on or over abandoned mines as well as detailing significant activities related to AML projects on their website. This section is consistent with the requirements of 30 CFR 884.13(a)(3)(vii).

4. Program Administration and Management

Part XII, Program Management and Administration, of Ohio's revised Plan describes the administrative and management structure of the AML Program. Section B of part XII identifies the organization of the agency designated to reclaim abandoned mine lands affected by coal mining activities (DMRM) and describes DMRM's major functions as responding to citizen concerns, environmental document preparation, grant writing and management, remediation design, bidding and contracting, and construction. Section C of part XII describes additional agencies of Ohio's Department of Natural Resources that assist in the AML program, as well as the relationship between DMRM and other State agencies that play a relevant role in reclamation activities. Section D of part XII outlines the personnel staffing policies that DMRM will follow

in the recruitment and retention for the AML Program. Section E describes the purchasing and procurement systems to be used by the agency, and section F describes the accounting system to be used by the agency. This section is consistent with the requirements of 30 CFR 884.13(a)(4).

5. Description of Reclamation Activities on Impacted Lands and Waters

Part XIII, Description of Reclamation Activities on Impacted Land and Waters, includes general descriptions, derived from available data, of the reclamation activities to be conducted. Specifically, the plan includes: maps depicting the known and suspected abandoned coal mines in the State, the known and suspected watersheds impacted by mining, and the status of the State's Acid Mine Drainage Abatement and Treatment projects; a description of the problems occurring on the identified lands and waters in Ohio; and how the Plan proposes to address each of the identified problems. Ohio recognizes that individual sites will vary in scope and breadth of adverse effects caused by mining and provides an extensive list of proven reclamation techniques and approaches that may be applied in any given site. This section is consistent with the requirements of 30 CFR 884.13(a)(5).

6. Description of Conditions

Part XIV, Description of Local Conditions, includes a general description, derived from available data, of the conditions prevailing in the geographic areas of the State where reclamation is planned. The Plan, in part XVI.A, describes the economic base of the Ohio counties affected by coal mining. Aesthetic, historical, and cultural elements of significance are considered in part XVI.B. The wide variety of recreational opportunities of the area are enumerated in part XVI.C. The ecosystem and ecology of the area, the adverse effects of coal mining on these systems, and how the Abandoned Mine Land Program works to address these effects is described in part XVI.D. This section is consistent with the requirements of 30 CFR 884.13(a)(6).

Thus, we find Ohio's Plan, as amended, meets all content requirements stipulated under 30 CFR 884.13 while also updating the Plan consistent with changes made to the Federal program in 2006 and 2008. Therefore, we are approving Ohio's revised Abandoned Mine Land reclamation plan.

IV. Summary and Disposition of Comments

Public Comments

In the May 10, 2019, **Federal Register** document announcing our receipt of this amendment, we asked for public comments (Administrative Record No. OH-2195-08). The comment period closed on June 10, 2019. No requests for public meetings or hearings were received. We received a single comment that was not germane to the program amendment and therefore we have not provided a response.

Federal Agency Comments

On March 22, 2017, under 30 CFR 884.14(a)(2) and 884.15(a), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Ohio Plan (Administrative Record No. OH-2195-02). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

On March 22, 2019, OSMRE solicited comments on the proposed amendment from EPA (Administrative Record No. OH-2195-02). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

On March 22, 2019, OSMRE solicited comments on the proposed amendment from the Ohio SHPO and ACHP (Administrative Record No. OH-2195-02). We did not receive comments from the SHPO or ACHP.

V. OSMRE's Decision

Based on the above findings, we are approving Ohio's AML Plan amendment that was sent to us on March 17, 2017 (Administrative Record No. 2195-01), and subsequent submittals providing clarification on September 15, 2017 (Administrative Record No. 2195-04), and an addition to the amendment request on September 18, 2018 (Administrative Record No. 2195-06).

To implement this decision, we are amending the Federal regulations at 30 CFR part 935 that codify decisions concerning the Ohio program. In accordance with the Administrative Procedure Act, this rule will take effect 30 days after the date of publication.

VI. Statutory and Executive Order Reviews

Executive Order 12630—Governmental Actions and Interference With Constitutionally Protected Property Rights

This rule would not effect a taking of private property or otherwise have taking implications that would result in private property being taken for government use without just compensation under the law. Therefore, a takings implication assessment is not required. This determination is based on an analysis of the corresponding Federal regulations.

Executive Order 12866—Regulatory Planning and Review, Executive Order 13563—Improving Regulation and Regulatory Review, and Executive Order 14094—Modernizing Regulatory Review

Executive Order 12866, as amended by Executive Order 14094, provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. Pursuant to OMB guidance, dated October 12, 1993 (OMB Memo M-94-3), the approval of plan amendments is exempted from OMB review under Executive Order 12866, as amended by Executive Order 14094. Executive Order 13563, which reaffirms and supplements Executive Order 12866, retains this exemption.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has reviewed this rule as required by section 3 of Executive Order 12988. The Department determined that this **Federal Register** document meets the criteria of section 3 of Executive Order 12988, which is intended to ensure that the agency review its legislation and proposed regulations to eliminate drafting errors and ambiguity; that the agency write its legislation and regulations to minimize litigation; and that the agency's legislation and regulations provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Because section 3 focuses on the quality of Federal legislation and regulations, the Department limited its review under this Executive order to the quality of this **Federal Register** document and to changes to the Federal regulations. The review under this Executive order did not extend to the language of the Ohio Plan or to the Plan amendment that Ohio drafted.

Executive Order 13132—Federalism

This rule has potential federalism implications as defined by section 1(a) of Executive Order 13132. Executive Order 13132 directs agencies to "grant the States the maximum administrative discretion possible" with respect to Federal statutes and regulations administered by the States. Ohio, through its approved reclamation program, implements and administers SMCRA and its implementing regulations at the State level. This rule approves an amendment to the Ohio Plan submitted and drafted by Ohio, and thus, is consistent with the direction to provide maximum administrative discretion to States.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of the Interior strives to strengthen its government-to-government relationship with Tribes through a commitment to consultation with Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on the distribution of power and responsibilities between the Federal Government and Tribes. The basis for this determination is that our decision is on the Ohio Plan that does not include Indian lands, as defined by SMCRA, or reclamation on Indian lands. Indian lands are regulated independently under the applicable Federal reclamation program. The Department's consultation policy also acknowledges that our rules may have Tribal implications where the State proposing the amendment encompasses ancestral lands in areas with minable coal. We are currently working to identify and engage appropriate Tribal stakeholders to devise a constructive approach for consulting on these amendments.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 requires agencies to prepare a Statement of Energy Effects for a rulemaking that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not significant energy action under the

definition in Executive Order 13211, a Statement of Energy Effects is not required.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. We are not required to provide a detailed statement under NEPA because this rule qualifies for a categorical exclusion under the U.S. Department of the Interior Departmental Manual, part 516, section 13.5(B)(29).

Paperwork Reduction Act

This rule does not include requests and requirements of an individual, partnership, or corporation to obtain information and report it to a Federal agency. As this rule does not contain information collection requirements, a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required.

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was

prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The

rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Ben Owens,

Acting Regional Director, North Atlantic–Appalachian Region.

For the reasons set out in the preamble, 30 CFR part 935 is amended as set forth below:

PART 935—OHIO

■ 1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Amend section 935.25 in the table by adding an entry in chronological order by “Date of final publication” to read as follows:

§ 935.25 Approval of Ohio abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * *	* * * * *	* * * * *
March 17, 2017	September 30, 2024	Repeal and replace Certified AML Plan to be consistent with changes to Federal program and update to reflect current agency conditions/practices, structure and organization. Revision of ORC 1513.27, 1513.28, 1513.30, 1513.31, 1513.32, 1513.37.

[FR Doc. 2024–22327 Filed 9–27–24; 8:45 am]

BILLING CODE 4310–05–P

POSTAL SERVICE

39 CFR Part 111

Address Correction Notices IMpb

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM®) in various sections to remove the hardcopy address correction notice option for all packages

bearing an Intelligent Mail® package barcode (IMpb®).

DATES: Effective: March 5, 2025.

FOR FURTHER INFORMATION CONTACT:

Michelle Evans at (901) 681–4474 or Garry Rodriguez at (202) 268–7281.

SUPPLEMENTARY INFORMATION: On August 6, 2024, the Postal Service published a notice of proposed rulemaking (89 FR 63850–63851) to remove the option to request PS Forms 3547, *Notice to Mailer of Correction in Address*, and PS Form 3579, *Notice of Undeliverable Periodical*, for packages with an IMpb. In response to the proposed rule, the Postal Service received one formal response containing two comments. The commenter asked if a customer does not register for Electronic Service Requested

and leaves Change Service Requested on their shipping label, how will the package be treated and then had two questions as follows:

Comment: The first comment questioned whether packages with Change Service Requested will be just disposed of?

Response: Yes, Change Service Requested will cause packages that are undeliverable as addressed (UAA) to be disposed of by USPS.

Comment: The second comment questioned if packages not having an endorsement would be treated as Forwarding Service Requested?

Response: No, the disposition of the package will be based on the printed endorsement when present, however a separate notice, when applicable, would

not be generated unless the Mailer ID (MID) in the IMpb is enrolled to generate ACS. Following is a general list of how the package would be handled based on the printed endorsement:

- Change Service Requested—If UAA, piece disposed of by USPS with no separate notice provided, unless the MID in the IMpb is enrolled to generate ACS.
- Address Service Requested—If UAA, piece forwarded or returned with no separate notice provided, unless the MID in the IMpb is enrolled to generate ACS.
- Forwarding Service Requested—If UAA, piece is either forwarded or returned.
- Return Service Requested—If UAA, piece returned to sender with new address or reason for nondelivery attached.
- No Endorsement—If UAA, default treatment is based on the mail class.

The Postal Service is requiring IMpb mailers that desire address correction information from undeliverable as addressed (UAA) mail to receive address correction notices electronically via Address Change Service (ACS). IMpb mailers will have to sign up for IMpb ACS or Traditional ACS.

The Postal Service is implementing this change effective March 5, 2025. However, mailers may begin to request ACS immediately. We believe this revision will provide customers with more efficient and less costly address correction notices.

Resources

The Postal Service provides additional resources to assist customers with this price change for competitive products. These tools include price lists, downloadable price files, and **Federal Register** Notices, which may be found on the Postal Explorer® website at <https://pe.usps.com>.

The Postal Service adopts the described changes to *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations*.

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

Accordingly, the Postal Service amends Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations as follows (see 39 CFR 111.1):

PART 111—[AMENDED]

- 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401–404, 414, 416, 3001–3018, 3201–3220, 3401–3406, 3621, 3622, 3626, 3629, 3631–3633, 3641, 3681–3685, and 5001.

- 2. Revise *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

200 Commercial Letters, Cards, Flats, and Parcels

* * * * *

204 Barcode Standards

* * * * *

2.0 Standards for Package and Extra Service Barcodes

2.1 Intelligent Mail Package Barcode

2.1.1 Definition

* * * * *

[Revise 2.1 by adding a new 2.1.14 to read as follows:]

2.1.14 IMpb with Ancillary Services

When certain ancillary services are used to receive separate address corrections for forwarded parcels, shippers that apply an IMpb to their parcels must request ACS under 507.4.1.5.

* * * * *

500 Additional Mailing Services

* * * * *

507 Mailer Services

1.0 Treatment of Mail

* * * * *

1.5 Treatment for Ancillary Services by Class of Mail

1.5.1 First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail

Undeliverable-as-addressed First-Class Mail (including postcards), USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail pieces are treated under Exhibit 1.5.1 with these additional conditions:

* * * * *

[Revise the introductory text of item f to read as follows:]

f. Address Change Service (ACS) under 4.0 is available for First-Class

Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial, and Priority Mail pieces with the ACS participant code for an authorized ACS participant and a valid ancillary service endorsement. Mailers participating in OneCode ACS under 4.2.6 that print an Intelligent Mail barcode on First-Class Mail automation letters may omit the participant code and endorsement. Parcel shippers must use either IMpb ACS or apply an ACS participant code to receive separate address corrections. The only endorsements permitted on First-Class Mail, USPS Ground Advantage—Retail, USPS Ground Advantage—Commercial and Priority Mail valid ACS pieces are “Address Service Requested”, “Change Service Requested” or “Electronic Service Requested” subject to the following:

* * * * *

1.5.2 Periodicals

Undeliverable-as-addressed (UAA) Periodicals publications (including publications pending Periodicals authorization) are treated as described in Exhibit 1.5.2, with these additional conditions:

[Revise item a by adding a new last sentence to read as follows:]

a. * * * Parcel shippers must use either IMpb ACS or apply an ACS participant code to receive separate address corrections.

* * * * *

1.5.3 USPS Marketing Mail

Undeliverable-as-addressed (UAA) USPS Marketing Mail pieces are treated as described in Exhibit 1.5.3, with these additional conditions:

* * * * *

[Revise the text of item f by adding a new last sentence to read as follows:]

f. * * * Parcel shippers must use either IMpb ACS or apply an ACS participant code when separate address corrections are requested.

* * * * *

1.5.4 Package Services and Parcel Select

Undeliverable-as-addressed (UAA) Package Services and Parcel Select mailpieces are treated as described in Exhibit 1.5.4, with these additional conditions:

[Revise the text of item a by adding a new last sentence to read as follows:]

a. * * * Parcel shippers must use either IMpb ACS or apply an ACS participant code when separate address corrections are requested.

* * * * *

4.0 Address Correction Services

4.1 Address Correction Service

* * * * *

4.1.5 Other Classes

[Revise the third sentence and add a new fourth and fifth sentence of 4.1.5 to read as follows:]

* * * Except for Full-Service and Seamless acceptance mailings, when separate corrections are necessary for First-Class Mail and USPS Marketing Mail, Form 3547 is mailed to the sender with the address correction fee charged and the mail is forwarded. When separate address corrections are necessary for forwarded parcels, shippers that apply the Impb to their parcels must request ACS and an electronic address correction notice via ACS is provided to the participant and the electronic address correction fee will be charged. There are two versions of ACS available to parcel shippers, Impb ACS or Traditional ACS.* * *

* * * * *

Christopher Doyle,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2024–22086 Filed 9–27–24; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2021–0264; FRL–8980–02–R4]

Air Plan Approval; North Carolina; Mecklenburg Emission Control Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision to the Mecklenburg County portion of the North Carolina SIP, hereinafter referred to as the Mecklenburg Local Implementation Plan (LIP). The revision was submitted by the State of North Carolina, through the North Carolina Division of Air Quality (NCDAQ), on behalf of Mecklenburg County Air Quality (MCAQ) via a letter dated April 24, 2020. The revision includes updates to various emission control standards contained in the Mecklenburg County Air Pollution Control Ordinance (MCAPCO) incorporated into the LIP. EPA is approving these changes pursuant to the Clean Air Act (CAA or Act).

DATES: This rule is effective October 30, 2024.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2021–0264. All documents in the docket are listed on the *regulations.gov* website. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Josue Ortiz Borrero, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8085. Mr. Ortiz Borrero can also be reached via electronic mail at ortizborrero.josue@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The original Mecklenburg County LIP was submitted to EPA on June 14, 1990, and EPA approved the plan on May 2, 1991. *See* 56 FR 20140. Mecklenburg County prepared three submittals to modify the LIP for, among other things, general consistency with the North Carolina SIP.¹ The three submittals were submitted as follows: NCDAQ transmitted the October 25, 2017, submittal to EPA but later withdrew it from review through a letter dated February 15, 2019. On April 24, 2020, NCDAQ resubmitted the October 25, 2017, update to EPA and also submitted the January 21, 2016, and January 14,

2019, updates. Due to an inconsistency with public notice at the local level, these submittals were withdrawn from EPA through a letter dated February 15, 2019. Mecklenburg County corrected this error, and NCDAQ submitted the updates to EPA in a submittal dated April 24, 2020.²

The April 24, 2020, submittal includes changes and updates to the following rules to align them more closely with their analogous SIP-approved North Carolina regulations: MCAPCO Rules 2.0502, *Purpose*; 2.0507, *Particulates from Chemical Fertilizer Manufacturing Plants*; 2.0508, *Particulates from Pulp and Paper Mills*; 2.0513, *Particulates from Portland Cement Plants*; 2.0514, *Particulates from Ferrous Jobbing Foundries*; 2.0515, *Particulates from Miscellaneous Industrial Processes*; and 2.0533, *Stack Height*. EPA is approving the incorporation of these rules into the Mecklenburg LIP.³

In a notice of proposed rulemaking (NPRM) published on July 25, 2024 (89 FR 60339), EPA proposed to approve the April 24, 2020, SIP revision. The details of North Carolina's submittal and the rationale for EPA's action are explained further in the July 25, 2024, NPRM. Comments on the NPRM were due on or before August 26, 2024. EPA received three sets of comments on the July 25, 2024, NPRM. One set of comments is not relevant to this action and two sets of comments are substantively identical. The two substantively identical comment sets are addressed below. All three comment sets are available in the docket for this action.

II. Response to Comments

EPA received two substantively identical sets of comments on the July 25, 2024, NPRM from Clean Future (Commenter). EPA has summarized and responded to the comments below.

Comments: The Commenter generally supports EPA's action and states that this SIP revision is “an important step toward improving air quality management in the region.” The Commenter provides generalized suggestions regarding the LIP and implementation of the LIP, including a request for a requirement that “actively gets updates and statements of

² EPA notes that the April 24, 2020, submission was received by EPA on June 19, 2020. For clarity, throughout this document EPA will refer to the June 19, 2020, submission by its cover letter date of April 24, 2020.

³ EPA has previously taken action on portions of the April 24, 2020, submittal. The April 24, 2020, submittal contains changes to other Mecklenburg LIP-approved rules that are not addressed in this document. EPA will be acting on those rules in separate actions.

¹ The Mecklenburg County, North Carolina revision that is dated April 24, 2020, and received by EPA on June 19, 2020, is comprised of three previous submittals—one dated January 21, 2016; one dated October 25, 2017; and one dated January 14, 2019.

facilities,” a request for regular assessments to ensure the regulations are being properly implemented, and a recommendation that EPA establish a mechanism for periodic review and adjustment of the regulations to incorporate new developments and address any unforeseen challenges. The Commenter also notes that there should be monitoring and enforcement and “effective mechanisms and reporting,” notes the importance of reviewing how these updated standards compare with current federal and State guidelines and notes the importance of assessing the effectiveness of these regulations to reduce emissions.

Response: EPA appreciates the Commenter’s support for this action. Due to the general nature of the Commenter’s requests and suggestions, EPA is only able to provide general responses.

The scope of EPA’s review in evaluating SIP revisions is limited to the process in CAA section 110 and EPA’s implementing regulations codified at 40 CFR part 51. Under CAA section 110, States have broad discretion to choose the mix of emission limitations and other control measures, means, or techniques that they will implement (or update) through a SIP to provide for attainment and maintenance of national ambient air quality standards (NAAQS). EPA’s role, with respect to a SIP revision, is focused on reviewing the submission to determine whether it meets the minimum criteria of the CAA. These minimum criteria include CAA section 110(l), which prohibits EPA from approving a SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the Act. Where a SIP revision meets the minimum CAA criteria, EPA must approve the submission. When approving a SIP revision, the Agency is not establishing its own requirements for the State to implement. If, at any time, EPA finds that a SIP is inadequate to attain or maintain the relevant NAAQS or otherwise does not comply with the CAA, EPA has the authority under CAA section 110(k)(5) to require the State to revise its SIP to correct such inadequacies.

In general, the Act addresses monitoring, reporting, and enforcement in SIPs (as well as LIPs). *See, e.g.*, CAA section 110(a)(2)(A) (requiring “enforceable emission limitations and other control measures, means, or techniques”); CAA section 110(a)(2)(B)(i) (requiring the “establishment and operation of devices

. . . to . . . monitor, compile, and analyze data on ambient air quality”); CAA section 110(a)(2)(C) (requiring “a program to provide for the enforcement” of such measures); CAA section 110(a)(2)(F) (addressing reporting). The LIP revisions at issue here are narrow and only include updates to emission standards in MCAPCO 2.0502, *Purpose*; 2.0507, *Particulates from Chemical Fertilizer Manufacturing Plants*; 2.0508, *Particulates from Pulp and Paper Mills*; 2.0513, *Particulates from Portland Cement Plants*; 2.0514, *Particulates from Ferrous Jobbing Foundries*; 2.0515, *Particulates from Miscellaneous Industrial Processes*; and 2.0533, *Stack Height*. The revision does not alter any existing LIP-approved monitoring, enforcement, or reporting requirements, remove any such requirements, or add any such requirements. Given the limited nature of this SIP revision and EPA’s role in reviewing SIP revisions discussed above, the comments regarding monitoring, reporting, and enforcement are beyond the scope of this action. Regarding the Commenter’s recommendation to establish a mechanism for periodic review and adjustment of regulations to incorporate new developments and challenges, EPA reiterates that it has the authority to issue a SIP call under CAA section 110(k)(5) if, at any time, it finds the SIP to be inadequate to attain or maintain the relevant NAAQS or otherwise does not comply with the CAA.

Regarding the importance of assessing the effectiveness of these regulations to reduce emissions and comparing the revision with federal and State guidelines, EPA reviewed the revision in accordance with CAA section 110(l), which prohibits the Agency from approving a SIP revision that would interfere with any applicable requirement concerning attainment or any other applicable requirement of the Act. In developing the NPRM, EPA evaluated each rule revision, including its potential impact on air quality and its consistency with applicable CAA requirements, and determined that the revision meets the requirements of CAA section 110(l). EPA is therefore approving this revision to the Mecklenburg LIP.

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, and as discussed in Sections I and II of this preamble, EPA is finalizing the incorporation by reference of the following revised MCAPCO Rules, with a local effective date of

December 15, 2015, into the Mecklenburg LIP: 2.0502, *Purpose*; 2.0507, *Particulates from Chemical Fertilizer Manufacturing Plants*; 2.0508, *Particulates from Pulp and Paper Mills*; ⁴ 2.0513, *Particulates from Portland Cement Plants*; ⁵ 2.0514, *Particulates from Ferrous Jobbing Foundries*; ⁶ 2.0515, *Particulates from Miscellaneous Industrial Processes*; and 2.0533, *Stack Height*. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.⁷

IV. Final Action

EPA is approving the aforementioned SIP revision by incorporating the following MCAPCO Rules, with a local effective date of December 15, 2015, into the Mecklenburg LIP: 2.0502, *Purpose*; 2.0507, *Particulates from Chemical Fertilizer Manufacturing Plants*; 2.0508, *Particulates from Pulp and Paper Mills*; 2.0513, *Particulates from Portland Cement Plants*; 2.0514, *Particulates from Ferrous Jobbing Foundries*; 2.0515, *Particulates from Miscellaneous Industrial Processes*; and 2.0533, *Stack Height*.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting

⁴ Rule 2.0508, currently entitled *Control of Particulates from Pulp and Paper Mills* in the Mecklenburg LIP, is being renamed to *Particulates from Pulp and Paper Mills*.

⁵ Rule 2.0513, currently entitled *Control of Particulates from Portland Cement Plants* in the Mecklenburg LIP, is being renamed to *Particulates from Portland Cement Plants*.

⁶ Rule 2.0514, currently entitled *Control of Particulates from Ferrous Jobbing Foundries* in the Mecklenburg LIP, is being renamed to *Particulates from Ferrous Jobbing Foundries*.

⁷ 62 FR 27968 (May 22, 1997).

Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

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

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

Executive Order 12898 (Federal Actions to Address Environmental

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

NCDAQ did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for communities with EJ concerns.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States

Court of Appeals for the appropriate circuit by November 29, 2024. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 20, 2024.

Jeanne Gettle,

Acting Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

- 2. In § 52.1770 paragraph (c)(3), amend the table by revising the entries for “Rule 2.0502”, “Rule 2.0507”, “Rule 2.0508”, “Rule 2.0513”, “Rule 2.0514”, “Rule 2.0515”, and “Rule 2.0533” to read as follows.

§ 52.1770 Identification of plan.

* * * * *

(c) * * *

(3) EPA-Approved Mecklenburg County Regulations

Citation	Title/subject	County effective date	EPA approval date	Explanation
*	*	*	*	*
SECTION 2.0500 EMISSION CONTROL STANDARDS				
*	*	*	*	*
Rule 2.0502	Purpose	12/15/2015	9/30/2024, [Insert first page of Federal Register citation].	.....
*	*	*	*	*
Rule 2.0507	Particulates from Chemical Fertilizer Manufacturing Plants.	12/15/2015	9/30/2024, [Insert first page of Federal Register citation].	.....

Citation	Title/subject	County effective date	EPA approval date	Explanation
Rule 2.0508	Particulates from Pulp and Paper Mills ...	12/15/2015	9/30/2024, [Insert first page of Federal Register citation].	.....
*	*	*	*	*
Rule 2.0513	Particulates from Portland Cement Plants.	12/15/2015	9/30/2024, [Insert first page of Federal Register citation].	.....
Rule 2.0514	Particulates from Ferrous Jobbing Foundries.	12/15/2015	9/30/2024, [Insert first page of Federal Register citation].	.....
Rule 2.0515	Particulates from Miscellaneous Industrial Processes.	12/15/2015	9/30/2024, [Insert first page of Federal Register citation].	.....
*	*	*	*	*
Rule 2.0533	Stack Height	12/15/2015	9/30/2024, [Insert first page of Federal Register citation].	.....
*	*	*	*	*

* * * * *

[FR Doc. 2024–22134 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2024–0046; FRL–11702–03–R3]

West Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final action.

SUMMARY: The state of West Virginia has applied to the United States Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for final authorization and is hereby authorizing West Virginia’s revisions through this direct final rule.

DATES: This final authorization will become effective on November 29, 2024, unless EPA receives adverse written comments by October 30, 2024. If EPA receives any such comments, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–RCRA–2024–0046 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit

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

The EPA encourages electronic submittals, but if you are unable to submit electronically or need other assistance, please contact Priscilla Ortiz Carrero, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section. Please also contact Priscilla Ortiz Carrero if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you.

FOR FURTHER INFORMATION CONTACT: Priscilla Ortiz Carrero, RCRA Programs Branch, Land, Chemicals and Redevelopment Division, U.S. Environmental Protection Agency Region 3 Four Penn Center, 1600 John F. Kennedy Blvd. (Mail code 3LD31), Philadelphia, PA 19103–2852, Phone number: (215) 814–3428; email: ortizcarrero.priscilla@epa.gov.

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States that have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program is revised to become more stringent or broader in scope, States must revise their programs and apply to EPA to authorize the revisions. Authorization of revisions to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other revisions occur. Most commonly, States must revise their programs because of revisions to EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

B. What decisions have we made in this rule?

On August 9, 2022, West Virginia submitted a final program revision application (with updated checklists submitted the following year) seeking authorization of revisions to its hazardous waste program that correspond to certain Federal rules promulgated through August 21, 2019. EPA concludes that West Virginia’s application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA, as set forth in RCRA section 3006(b), 42 U.S.C. 6926(b), and 40 CFR part 271. Therefore, EPA grants West Virginia final authorization to operate its hazardous waste program with the revisions described in its authorization application, as outlined below in section G of this preamble. West Virginia has responsibility for permitting treatment, storage, and disposal facilities (TSDFs) within its

borders and for carrying out the aspects of the RCRA program described in its application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those HSWA requirements and prohibitions for which West Virginia has not been authorized, including issuing HSWA permits, until the State is granted authorization to do so.

C. What is the effect of this authorization decision?

This action serves to authorize revisions to West Virginia's authorized hazardous waste program. This action does not impose additional requirements on the regulated community because the regulations for which West Virginia is being authorized by this action are already effective and are not changed by this action. West Virginia has enforcement responsibilities under its State hazardous waste program for violations of its program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Perform inspections, and require monitoring, tests, analyses or reports;
- Enforce RCRA requirements and suspend or revoke permits; and
- Take enforcement actions regardless of whether West Virginia has taken its own actions.

D. Why was there not a proposed rule before this rule?

Along with this direct final rule, EPA is publishing a separate document in the "Proposed Rules" section of this issue of the **Federal Register** that serves as the

proposal to authorize these State program revisions. EPA did not publish a proposed rulemaking before this issue of the **Federal Register** because EPA views this action as a routine program change and does not expect comments that oppose its approval. EPA is providing an opportunity for public comment now, as described in section E of this preamble.

E. What happens if EPA receives comments that oppose this action?

If EPA receives adverse comments pertaining to this State revision, EPA will withdraw this direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of West Virginia's program revisions on the proposed rulemaking mentioned in the previous section, after considering all comments received during the comment period. EPA will then address all relevant comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

F. What has West Virginia previously been authorized for?

West Virginia initially received final authorization of its hazardous waste program effective May 29, 1986 (May 15, 1986, 51 FR 17739). EPA granted authorization for revisions to West Virginia's regulatory program on May 10, 2000, effective July 10, 2000 (65 FR 29973); October 16, 2003, effective December 15, 2003 (68 FR 59542); and November 25, 2013, effective January 24, 2014 (78 FR 70225).

G. What revisions is EPA authorizing with this action?

On August 9, 2022, West Virginia submitted a final program revision application (with subsequent

corrections) seeking authorization of additional revisions to its hazardous waste program in accordance with 40 CFR 271.21. West Virginia's revision application includes various regulations that are equivalent to, and no less stringent than, selected Federal final hazardous waste rules, as published in the **Federal Register** through August 19, 2019.

EPA now makes a direct final rule, subject to receipt of written comments that oppose this action, that West Virginia's hazardous waste program revision application satisfies all of the requirements necessary to qualify for final authorization. Therefore, EPA grants West Virginia final authorization for the following program revisions:

1. Program Revision Changes for Federal Rules

West Virginia seeks authority to administer the Federal requirements that are listed in Table 1 of this preamble. This table lists the West Virginia analogs that have been revised; these revisions are being recognized as no less stringent than the analogous Federal requirements.

West Virginia's regulatory references are to the West Virginia Code of State Regulations, Title 33, Series 20 "Hazardous Waste Management System" (33CSR20), effective July 1, 2020; Title 45, Series 25 "Control of Air Pollution from Hazardous Waste Treatment, Storage and Disposal Facilities" (45CSR25), effective June 1, 2020; Title 150, Series 11 "Rules Governing the Transportation of Hazardous Waste by Rail" (150CSR11), effective December 24, 2002; and Title 157, Series 7 "Transportation of Hazardous Wastes Upon the Roads and Highways" (157CSR7), effective March 17, 2020.

TABLE 1—WEST VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS

Description of Federal requirement (revision checklists ¹)	Federal Register page and date	Analogous West Virginia authority
RCRA Cluster XVI		
Standardized Permit for RCRA Hazardous Waste Management Facilities, Revision Checklist 210.	70 FR 53420–53478, 09/08/2005	33CSR20 secs. 1.5.a, 2.1, 2.1.a, 3.1, 11.1, 11.2, 11.2.a, 11.4, 11.4.a, 11.4.b, 11.4.c, 11.5, 11.5.a, 11.6, 11.8, 11.8.b, 11.8.b.1, 11.11, 11.12, 11.13, 11.16, 11.17, and 16.
RCRA Cluster XXI		
Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents, Checklist 225.	75 FR 78918–78926, 12/17/2010	33CSR20 sec. 3.1.
Academic Laboratories Generator Standards Technical Corrections, Revision Checklist 226.	75 FR 79304–79308, 12/20/2010	33CSR20 sec. 5.1.
Revision of the Land Disposal Treatment Standards for Carbamate Wastes, Revision Checklist 227.	76 FR 34147–34157, 06/13/2011	33CSR20 sec. 10.1.

TABLE 1—WEST VIRGINIA'S ANALOGS TO THE FEDERAL REQUIREMENTS—Continued

Description of Federal requirement (revision checklists ¹)	Federal Register page and date	Analogous West Virginia authority
RCRA Cluster XXII		
Hazardous Waste Technical Corrections and Clarifications Rule, Revision Checklist 228.	77 FR 22229–22232, 04/13/2012	33CSR20, secs. 3.1 and 9.1; 45CSR25, secs. 1.6.a and 1.6.b.
RCRA Cluster XXIII		
Conditional Exclusions for Solvent Contaminated Wipes, Revision Checklist 229.	78 FR 46448–46485, 07/31/2013	33CSR20, secs. 2.1.a, 3.1, and 5.3; 45CSR25, secs. 1.6.a and 1.6.b.
Conditional Exclusion for Carbon Dioxide (CO ₂) Streams in Geologic Sequestration Activities, Revision Checklist 230.	79 FR 350–364, 01/03/2014	33CSR20, secs. 2.1.a and 3.1.
RCRA Cluster XXIV		
Revisions to the Definition of Solid Waste Non-waste determinations and variances, Revision Checklist 233A.	80 FR 1694–1814 (January 13, 2015); 83 FR 24664–24671 (May 30, 2018).	33CSR20, sec. 2.1.
Revisions to the Definition of Solid Waste Legitimacy related provisions, Revision Checklist 233B.	80 FR 1694–1814 (January 13, 2015); 83 FR 24664–24671 (May 30, 2018).	33CSR20, secs. 2.1, 2.1.a, and 3.1.
Revisions to the Definition of Solid Waste Speculative Accumulation, Revision Checklist 233C.	80 FR 1694–1814 (January 13, 2015)	33CSR20, sec. 3.1.
Revisions to the Definition of Solid Waste: 2008 DSW exclusions and non-waste determinations, including revisions from 2015 DSW final rule and 2018 DSW final rule, Revision Checklist 233D2.	80 FR 1694–1814 (January 13, 2015); 83 FR 24664–24671 (May 30, 2018).	33CSR20 secs. 2.1, 2.1.a, 3.1, and 11.1.
Revisions to the Definition of Solid Waste: Remanufacturing exclusion, Revision Checklist 233E.	80 FR 1694–1814 (January 13, 2015)	33CSR20 secs. 2.1.a. and 3.1.
Response to Vacatur of the Comparable Fuels Rule and the Gasification Rule, Revision Checklist 234.	80 FR 18777–18780, 04/08/2015	33CSR20 secs. 2.1.a and 3.1.
Disposal of Coal Combustion Residuals from Electric Utilities, Revision Checklist 235.	80 FR 21302–21501, 04/17/2015	33CSR20 sec. 3.1.
RCRA Cluster XXV		
Hazardous Waste Generator Rule Improvements, Revision Checklist 237.	81 FR 85730–85829, 11/28/2016	33CSR20 secs. 2.1, 2.1.a, 2.5.d, 3.1, 4, 4.2, 5.1, 5.2, 5.2.a, 5.3, 5.4, 6.1, 6.2, 7.2, 8.1, 8.6, 9.1, 10.1, 11.1, 13.1, 13.4, 14, and 14.1; 157CSR7 secs. 3, 3.1.1, 5.1; 150CSR11 secs. 1.7, 1.8, 1.11, 2, 4, 8, 9, 10; 45CSR25 secs. 1.6.a, 1.6.b.
RCRA Cluster XXVII		
Safe Management of Recalled Airbags, Revision Checklist 240.	83 FR 61552–61563, 11/30/2018	33CSR20 secs. 2.1.a, 3.1, and 5.1.
Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine, Revision Checklist 241.	84 FR 5816–5950, 02/22/2019	33CSR20 secs. 3.1, 5.1, 7.2, 8.1, 9.1, 10.1, 11.1, and 13.1.

¹ A Revision Checklist is a document that addresses the specific revisions made to the Federal regulations by one or more related final rules published in the **Federal Register**. EPA develops these checklists as tools to assist States in developing their authorization applications and in documenting specific State analogs to the Federal Regulations. For more information see EPA's RCRA State Authorization web page at <https://www.epa.gov/rcra/state-authorization-under-resource-conservation-and-recovery-act-rcra>.

2. State-Initiated Revisions

In addition, West Virginia will be authorized to carry out, in lieu of the Federal program, State-initiated revisions to provisions of the State's program. These State-initiated revisions

are related to the adoption and renumbering of provisions throughout the State's hazardous waste regulations. The changes improve the clarity of the State's regulations and provide the necessary conforming changes due to State terms, or which are related to

Federal amendments that do not apply to West Virginia. Tables 2 and 3 of this preamble list the updates on 33CSR20, effective July 1, 2020, where the State incorporates by reference per 33CSR20 sec. 1.5 the Federal counterparts in effect on August 21, 2019.

TABLE 2—REDESIGNATED PROVISIONS IN WEST VIRGINIA'S HAZARDOUS WASTE REGULATIONS

State citation as found in 33CSR20, effective June 1, 2012	State citation as found in 33CSR20, effective July 1, 2020
33CSR20 sec. 1.9	33CSR20 sec. 1.6.
33CSR20 sec. 3.2	33CSR20 sec. 5.3.
33CSR20 sec. 4.2.b	33CSR20 sec. 4.2.a.
33CSR20 sec. 4.2.c	33CSR20 sec. 4.2.b.
33CSR20 sec. 4.2.d	33CSR20 sec. 4.2.c.
33CSR20 sec. 4.2.e	33CSR20 sec. 4.2.d.
33CSR20 sec. 5.5	33CSR20 sec. 5.4.
33CSR20 sec. 7.6.a	33CSR20 sec. 7.6.
33CSR20 sec. 8.2	33CSR20 sec. 8.3 and 8.3.a.
	33CSR20 sec. 8.2 and 8.3 general rewrite.

TABLE 2—REDESIGNATED PROVISIONS IN WEST VIRGINIA'S HAZARDOUS WASTE REGULATIONS—Continued

State citation as found in 33CSR20, effective June 1, 2012	State citation as found in 33CSR20, effective July 1, 2020
33CSR20 sec. 8.3	33CSR20 sec. 8.4.
33CSR20 sec. 8.4	33CSR20 sec. 8.5.
33CSR20 sec. 8.5	33CSR20 sec. 8.6.

TABLE 3—PROVISIONS ADDED OR REMOVED FROM WEST VIRGINIA'S HAZARDOUS WASTE REGULATIONS

State citation as found in 33CSR20, effective June 1, 2015	State citation as found in 33CSR20, effective July 1, 2020
33CSR20 sec. 1.6 through 33CSR20 sec. 1.8	Removed.
33CSR20 sec. 1.10	Removed.
33CSR20 sec. 2.1.b	Removed.
33CSR20 sec. 2.1.a.3	Added.
33CSR20 sec. 3.3	Removed.
33CSR20 sec. 4.1.a through 33CSR20 sec. 4.1.b	Removed.
33CSR20 sec. 4.2.a	Removed.
33CSR20 sec. 4.2.f	Removed.
33CSR20 sec. 5.4	Removed.
33CSR20 sec. 5.6	Removed.
33CSR20 sec. 5.7	Removed.
33CSR20 sec. 8.2	Removed.
33CSR20 sec. 11.2.b	Removed.

H. Where are the revised West Virginia rules different from the Federal rules?

When revised State rules differ from the Federal rules in the RCRA State authorization process, EPA determines whether the State rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, State programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. West Virginia's hazardous waste program contains several provisions that are more stringent than the RCRA program. They include, but are not limited to, the following:

1. West Virginia's regulation at 33CSR20 section 4 requires notification to the State of activities involving hazardous waste in the State of West Virginia. This is in addition to the Federal notification requirements found at 40 CFR 262.10(a)(2)(i), 262.13(c)(1), 262.14(a), 262.16, 262.17, 262.232(a)(2), and 266.80(a).

2. West Virginia's regulation at 33CSR20 section 5.3 excepts from incorporation by reference the Federal regulations at 40 CFR 262.14(a)(5)(iv) and (v). These Federal provisions list some conditions that must be met by very small quantity generators (VSQGs) in order to be exempt from meeting most of the requirements of 40 CFR parts 124, 262–268, and 270. West Virginia's program is more stringent because meeting the conditions listed in the Federal provisions will not exempt

VSQGs from the analogous requirements listed above.

I. Who handles permits after this authorization takes effect?

After this authorization revision, West Virginia will continue to issue permits covering all the provisions for which it is authorized and will administer all such permits. EPA will continue to administer any RCRA hazardous waste permits or portions of permits that it issued prior to the effective date of this authorization until the timing and process for effective transfer to the State are mutually agreed upon. Until such time as EPA formally transfers responsibility for a permit to West Virginia and EPA terminates its permit, EPA and West Virginia agree to coordinate the administration of such permit in order to maintain consistency. EPA will not issue any more new permits or new portions of permits for the provisions listed in section G of this preamble after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which West Virginia is not yet authorized.

J. How does this action affect Indian country (18 U.S.C. 1151) in West Virginia?

West Virginia is not seeking authorization to operate the program on Indian lands, since there are no Federally recognized Indian lands in West Virginia.

K. What is codification and is EPA codifying West Virginia's hazardous waste program as authorized in this rule?

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. EPA does this by referencing the authorized State rules in 40 CFR part 272. EPA is not codifying the authorization of West Virginia's revisions at this time. However, EPA reserves the amendment of 40 CFR part 272, subpart XX, for this authorization of West Virginia's program revisions until a later date.

L. Statutory and Executive Order Reviews

This action is not a significant regulatory action as defined in Executive Order 12866 (58 FR 51735, October 4, 1993), as amended by Executive Order 14094 (88 FR 21879, April 11, 2023), because this action authorizes State requirements pursuant to RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Therefore, this action was not subject to a requirement for Executive Order 12866 review. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded

mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). In any case, Executive Order 13175 does not apply to this rule since there are no Federally recognized tribes in West Virginia.

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks that may disproportionately affect children. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State’s application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high

and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, because it approves pre-existing State rules that are no less stringent than existing Federal requirements and imposes no additional requirements beyond those imposed by State law. For these reasons, this rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). However, this action will not be effective until November 29, 2024 because it is a direct final rule.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Adam Ortiz,

Regional Administrator, EPA Region 3.

[FR Doc. 2024–21665 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 422, 423, and 460

[CMS–4201–F5 and CMS–4205–F4]

RIN 0938–AV24 and 0938–AU96

Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024—Remaining Provisions and Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (PACE); Correcting Amendment

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects technical and typographical errors in the final rule that appeared in the April 23, 2024 **Federal Register** titled “Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024—Remaining Provisions and Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (PACE).” The effective date of the final rule was June 3, 2024.

DATES: This correcting amendment is effective September 30, 2024.

FOR FURTHER INFORMATION CONTACT:

Carly Medosch, (410) 786–8633—General Questions.

Naseem Tarmohamed, (410) 786–0814—Part C and Cost Plan Issues.

Lucia Patrone, (410) 786–8621—Part D Issues.

Kelley Ordonio, (410) 786–3453—Parts C and D Payment Issues.

Hunter Coohill, (720) 853–2804—Enforcement Issues.

Lauren Brandow, (410) 786–9765—PACE Issues.

Sara Klotz, (410) 786–1984—D–SNP Issues.

Joe Strazzire, (410) 786–2775—RADV Audit Appeals Issues.

PartCandDStarRatings@cms.hhs.gov—Parts C and D Star Ratings Issues.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2024–07105 of April 23, 2024 (89 FR 30448), the final rule titled “Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024—Remaining Provisions and Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (PACE)”, there were several typographical and technical errors that are identified and corrected in this correcting amendment.

II. Summary of Errors

We are correcting typographical and grammatical errors in the regulatory text of §§ 422.101(f)(3)(iv)(B)(3), 422.514(h)(2), and 423.346(e)(2), respectively.

We are correcting inadvertent technical and typographical errors in the regulations text of § 423.153.

In § 460.20, we inadvertently revised paragraph (c), when we intended to redesignate paragraphs (c) through (e) as paragraphs (d) through (f) and add a new paragraph (c). Our intent was to finalize the proposed changes to § 460.20 that were included in the proposed rule that appeared in the December 27, 2022 **Federal Register** (87 FR 79452) titled “Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, Medicare Parts A, B, C, and D Overpayment Provisions of the Affordable Care Act and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications.” We are providing corrected instructions to address this error and redesignate paragraphs (d) and (e) as paragraphs (e) and (f), and to specify that we are adding new paragraph (d).

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Specifically, 5 U.S.C. 553 requires the agency to publish a notice of the proposed rule in the **Federal Register** that includes a reference to the legal authority under which the rule is proposed, and the terms and substance of the proposed

rule or a description of the subjects and issues involved. Further, 5 U.S.C. 553 requires the agency to give interested parties the opportunity to participate in the rulemaking through public comment on a proposed rule. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment for rulemaking to carry out the administration of the Medicare program under title XVIII of the Act. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Social Security Act (the Act) mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements. In cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act, also provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

We believe that this correcting amendment does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements of the APA or section 1871 of the Act. This correcting amendment corrects typographical and technical errors in the regulatory text of the final rule but does not make substantive changes to the policies that were adopted in the final rule. As a result, this correcting amendment is intended to ensure that the information in the final rule accurately reflects the policies adopted in that final rule.

In addition, even if this were a rule to which the notice and comment procedures and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the regulatory text correction in this document into the final rule or delaying the effective date would be unnecessary, as we are not altering our policies or regulatory

changes, but rather, we are simply implementing the policies and regulatory changes that we previously proposed, requested comment on, and subsequently finalized.

This final rule correcting amendment is intended solely to ensure that the final rule and the Code of Federal Regulations (CFR) accurately reflect policies and regulatory changes that have been adopted through rulemaking. Furthermore, such notice and comment procedures would be contrary to the public interest because it is in the public’s interest to ensure that the final rule accurately reflects our policies and regulatory changes. Therefore, we believe we have good cause to waive the notice and comment and effective date requirements.

List of Subjects

42 CFR Parts 422 and 423

Administrative practice and procedure, Health facilities, Health maintenance organizations (HMO), Medicare, Penalties, Privacy, Reporting and recordkeeping requirements.

42 CFR Part 460

Aged, Citizenship and naturalization, Civil rights, Health, Health care, Health records, Individuals with disabilities, Medicaid, Medicare, Religious discrimination, Reporting and recordkeeping requirements, Sex discrimination.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services corrects 42 CFR chapter IV by making the following correcting amendments:

PART 422—MEDICARE ADVANTAGE PROGRAM

- 1. The authority citation for part 422 continues to read as follows:

Authority: 42 U.S.C. 1302, 1306, 1395w–21 through 1395w–28, and 1395hh.

§ 422.101 [Amended]

- 2. Amend § 422.101, in paragraph (f)(3)(iv)(B)(3), by removing the phrase “related SNP operations.” and adding in its place the phrase “related to SNP operations.”.

§ 422.514 [Amended]

- 3. Amend § 422.514, in paragraph (h)(2), by removing the phrase “(or continue to cover individuals)” and adding in its place the phrase “(or continue to cover) individuals”.

PART 423—VOLUNTARY MEDICARE PRESCRIPTION DRUG BENEFIT

■ 4. The authority citation for part 423 continues to read as follows:

Authority: 42 U.S.C. 1302, 1306, 1395w–101 through 1395w–152, and 1395hh.

§ 423.153 [Amended]

■ 5. Amend § 423.153 by:

- a. Revising the section heading;
- b. In paragraph (a), removing the phrase “an MTMP as described” and adding in its place the phrase “an MTM program as described”;
- c. In paragraph (d), adding a paragraph heading;
- d. In paragraph (d)(1)(vi), removing the term “MTMP” and adding in its place the phrase “MTM program”;
- e. In paragraph (d)(1)(vii) introductory text, removing the term “MTMP” and adding in its place the phrase “MTM program”;
- f. In paragraph (d)(6), removing the term “MTMP” and adding in its place the phrase “MTM program”; and
- g. Redesignating paragraphs (g)(i) through (iii) as paragraphs (g)(1)(i) through (iii).

The revision and addition read as follows:

§ 423.346 Drug utilization management, quality assurance, medication therapy management (MTM) programs, drug management programs, and access to Medicare Parts A and B claims data extracts.

* * * * *

(d) *Medication therapy management (MTM) program*—* * *

* * * * *

■ 6. Amend § 423.346, in paragraph (e)(2), by removing the phrase “contracts that is” and adding in its place the phrase “contracts that are”.

PART 460—PROGRAMS OF ALL-INCLUSIVE CARE FOR THE ELDERLY (PACE)

■ 7. The authority citation for part 460 continues to read as follows:

Authority: 42 U.S.C. 1302, 1395, 1395eee(f), and 1396u–4(f).

■ 8. Amend § 460.20 by:

- a. Redesignating paragraphs (d) and (e) as paragraphs (e) and (f); and
- b. Adding a new paragraph (d).

The addition reads as follows:

§ 460.20 Notice of CMS determination.

* * * * *

(d) *Additional information requested.* If CMS determines that an application is not complete because it does not include sufficient information to make a determination, CMS will request

additional information within 90 days, or 45 days for applications set forth in § 460.10(a)(2), after the date of submission of the application.

(1) The time limits in paragraph (a) of this section do not begin until CMS receives all requested information and the application is complete.

(2) If more than 12 months elapse between the date of initial submission of the application and the entity’s response to the CMS request for additional information, the entity must update the application to provide the most current information and materials related to the application.

* * * * *

Elizabeth J. Gramling,

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

[FR Doc. 2024–22203 Filed 9–27–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 240514–0138; RTID 0648–XE252]

Fisheries of the Northeastern United States; Atlantic Spiny Dogfish Fishery; Extension of 2024 Specifications Emergency Measures

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

ACTION: Temporary rule; emergency action extended.

SUMMARY: This emergency action extends the 2024 emergency action specifications for the spiny dogfish fishery through the remainder of the 2024 fishing year and implements an accountability measure consistent with the regulations implementing the Spiny Dogfish Fishery Management Plan. This action is necessary to maintain allowable harvest levels for the spiny dogfish fishery to prevent overfishing while minimizing adverse economic impacts on fishing communities, using the best scientific information available.

DATES: Effective November 18, 2024, through April 30, 2025.

ADDRESSES: The Mid-Atlantic Fishery Management Council prepared an environmental assessment (EA) for these specifications that describes the action, other considered alternatives, and analyses of the impacts of all alternatives. Copies of the specifications

document, including the EA, are available on request from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. These documents are also accessible via the internet at <https://www.mafmc.org/action-archive>.

FOR FURTHER INFORMATION CONTACT:

Laura Deighan, Fishery Policy Analyst, (978) 281–9184, laura.deighan@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background**

The implementing regulations for the Atlantic Spiny Dogfish Fishery Management Plan (FMP) are found at 50 CFR part 648 subpart L, and require the specification of regulatory harvest limits, including an acceptable biological catch (ABC), annual catch limit (ACL), annual catch target (ACT), total allowable landings (TAL), and a coastwide commercial quota, with each fishing year running from May 1 through April 30. Under the authority of section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), NMFS issued a temporary emergency rule to implement spiny dogfish specifications for the first 6 months of the 2024 fishing year on May 22, 2024 (89 FR 44924), and took public comment on the emergency rule through June 21, 2024. The **Federal Register** notification on the emergency rule (89 FR 44926) indicated that “[a]fter considering public comments on this rule, NMFS may extend the interim measures for one additional period of not more than 186 days to maintain these measures for the remainder of the 2024 fishing year.” The emergency rule set the ABC equal to the overfishing limit (OFL) of 7,818 mt (17.24 million lb), used the Monitoring Committee’s recommended model-based values for discards, and accounted for expected recreational landings, resulting in a commercial quota of 5,140 mt (11.33 million lb).

The Mid-Atlantic and New England Fishery Management Councils (Councils) jointly manage the Atlantic Spiny Dogfish FMP, with the Mid-Atlantic Council acting as the administrative lead. NMFS was unable to approve the Councils’ recommended 2024 specifications because they relied on a discard estimate that violated National Standard 2, which requires management measures to be based on the best available science.

Given significant concerns raised by the fishing industry about the risk to the associated fishing communities if the

commercial quota were substantially reduced, NMFS took emergency action to set the 2024 spiny dogfish specifications at levels higher than the Scientific and Statistical Committee (SSC) and Monitoring Committee recommendation for 2024. NMFS set the 2024 specifications with the ABC equal to the OFL, resulting in no more than a 50-percent chance of overfishing, consistent with National Standard 1. These specifications resulted in a higher commercial quota when using the model-based discard estimate, which is considered the best scientific information available. The emergency rule responded to concerns under National Standard 8 regarding the ability of the dogfish industry, and the communities that depend upon it, to continue to participate in the fishery while remaining consistent with the provisions of National Standard 1, that we prevent overfishing, and National Standard 2, that we base management measures on the best scientific information available. The **Federal Register** notification for the original emergency more fully describes the rationale for this action.

The 2023 ACL was 7,751 mt (17.09 million lb), and data on the dogfish fishery's performance in fishing year 2023 became available after the publication of the initial emergency rule. Final catch information indicate that total dead catch in fishing year 2023, including Federal commercial, state-only commercial, and recreational landings and estimated dead discards, was 8,243 mt (18.17 million lb). This represents a fishing year 2023 ACL overage of 491 mt (1.08 million lb). The spiny dogfish regulations at 50 CFR 648.233(c) require a deduction of the

exact amount of the ACL overage, by weight, from a subsequent single-fishing-year ACL, as soon as possible. This action extends the emergency specifications through the end of the 2024 fishing year and reduces the remaining ACL and commercial quota to account for the 2023 ACL overage, as required by the regulations. We could not have included this adjustment in the initial emergency rule because complete data on fishing year 2023 were not yet available when that rule was promulgated.

The emergency measures will expire on November 18, 2024, under the Magnuson-Stevens Act's initial 180-day limit on the duration of an emergency action. The Magnuson-Stevens Act allows an extension of emergency actions for up to 186 days, provided that the public had an opportunity to comment on the emergency action and, for Council-recommended actions, the Council is actively preparing measures to address the emergency. We will consider the Councils' recommended specifications for 2025 and 2026 in subsequent rulemakings. This emergency action is intended to provide a 1-year bridge, with a slightly higher risk of overfishing (*i.e.*, 50 percent, versus the Council-recommended 46 percent) on a stock above its biomass target, to mitigate the potential long-term adverse economic and social impact should the fishery lose access to its sole remaining commercial processor.

Extending the emergency action prevents the spiny dogfish fishery from reverting to the 2023 specifications that would be in place through a rollover provision when the emergency action expires. The underlying emergency conditions have not changed. The 2023

specifications included a higher ABC and commercial quota, which are not consistent with the best available scientific information to prevent overfishing with at least a 50-percent probability. Reverting to the 2023 specifications would result in an increased risk of overfishing. Fishing vessel owners and operators have changed their fishing behavior in anticipation of the emergency action's continuation through the end of the fishing year. Therefore, we are extending the emergency measures through the end of the 2024 fishing year (April 30, 2025). For the same reasons noted in the May 22, 2024, emergency rule, NMFS has determined that extending the emergency action to maintain the 2024 specifications through the end of the fishing year meets the criteria for emergency action.

Application of Accountability Measure for 2023 Overage

This action will extend the 2024 specifications through the end of the fishing year on April 30, 2025, and will reduce the ACL and commercial quota to pay back an ACL overage in fishing year 2023. By operation of the spiny dogfish accountability measures, a payback for an overage must occur "as soon as possible from a subsequent single fishing year ACL." (50 CFR 648.233(c)). The initial emergency rule set the 2024 ACL at 7,782 mt (17.16 million lb) and the commercial quota at 5,140 mt (11.33 million lb). When accounting for the 491 mt (1.08 million lb) overage in fishing year 2023, this results in an updated ACL of 7,291 mt (16.07 million lb) and a commercial quota of 4,649 mt (10.25 million lb) for fishing year 2024 (table 1).

TABLE 1—UPDATED ATLANTIC SPINY DOGFISH SPECIFICATIONS FOR FY2024

	Adjusted specifications		Initial specifications	
	lb	mt	lb	mt
OFL	17,235,719	7,818	17,235,719	7,818
ABC	17,235,719	7,818	17,235,719	7,818
Canadian Landings	79,366	36	79,366	36
Domestic ABC	17,156,353	7,782	17,156,353	7,782
ACL Reduction (FY2023 Overage)	1,082,487	491	.....	.....
ACL	16,073,866	7,291	17,156,353	7,782
Management Uncertainty Buffer	0	0	0	0
Amount of buffer	0	0	0	0
ACT	16,073,866	7,291	17,156,353	7,782
U.S. Discards *	5,577,689	2,530	5,577,689	2,530
TAL	10,496,177	4,761	11,578,664	5,252
U.S. Recreational Landings	246,917	112	246,917	112
Commercial Quota	10,249,260	4,649	11,331,747	5,140

* This table corrects a typographical error in the U.S. discards, which was published as 5,577,698 lb in the initial emergency rule.

Comments and Responses

The public comment period for the original emergency rule ended on June 21, 2024, and NMFS did not receive any comments from the public.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and is consistent with the national standards and other provisions of the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA, finds good cause under the authority contained in 5 U.S.C. 553(b)(B) that it is contrary to the public interest and impracticable to provide prior notice and opportunity for the public to comment. As more fully explained above, the reasons justifying promulgation of this action on an emergency basis, coupled with the fact that the public has had the opportunity to comment on NMFS' emergency action that this is extending, make solicitation of public comment unnecessary, impractical, and contrary to the public interest. In the interest of receiving public input on this action, the EA analyzing the impacts of this action was made available to the public and the original emergency action solicited public comment.

This action is being taken pursuant to the emergency provision of the Magnuson-Stevens Act and is exempt from review by the Office of Management and Budget.

The analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable to this emergency rule extension because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law. Therefore, a regulatory flexibility analysis is not required, and none has been prepared.

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

Dated: September 20, 2024.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2024–22373 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 240227–0061]

RTID 0648–XE228

Fisheries of the Economic Exclusive Zone Off Alaska; Pollock Fishing by Vessels 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 directed fishing for pollock by vessels using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2024 Chinook salmon prohibited species catch limit established for vessels using trawl gear in the Central Regulatory Area of the GOA.

DATES: Effective September 25, 2024, through 2400 hours, A.l.t., December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907–586–7228.

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 part 600 and 50 CFR part 679.

The 2024 Chinook salmon prohibited species catch (PSC) limit for vessels directed fishing for pollock using trawl gear in the Central Regulatory Area of the GOA is 18,316 Chinook salmon (§ 679.21(h)(2)(ii)).

In accordance with § 679.21(h)(8)(i), the Regional Administrator has determined that the 2024 Chinook salmon PSC limit established for vessels directed fishing for pollock using trawl gear in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is prohibiting directed fishing for pollock by vessels using trawl gear in the Central Regulatory Area of the GOA.

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 closing directed fishing for pollock by vessels 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 September 25, 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: September 25, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–22378 Filed 9–25–24; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 240304–0068; RTID 0648–XE312]

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from catcher vessels using trawl gear to catcher vessels less than 60 feet (18.3 m) length overall (LOA) using hook-and-line or pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow

the 2024 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: September 27, 2024, through 2400 hours, Alaska local time (A.l.t.), December 31, 2024.

FOR FURTHER INFORMATION CONTACT: Adam Zaleski, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act (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 Pacific cod TAC specified for vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear in the BSAI is 5,884 metric tons (mt) as established by the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024) and reallocations (89 FR 24736, April 9, 2024 and 89 FR 67327, August 20, 2024).

The 2024 Pacific cod TAC specified for trawl catcher vessels in the BSAI is 29,754 mt as established by the final

2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024) and reallocation (89 FR 67327, August 20, 2024).

The Administrator, Alaska Region, NMFS, (Regional Administrator) has determined that trawl catcher vessels will not be able to harvest 1,000 mt of the 2024 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(9).

Therefore, in accordance with § 679.20(a)(7)(iii)(A), NMFS reallocates 1,000 mt from trawl catcher vessels to the annual amount specified for catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear.

The harvest specifications for 2024 Pacific cod included in the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024) and reallocations (89 FR 24736, April 9, 2024 and 89 FR 67327, August 20, 2024) are revised as follows: 6,884 mt to catcher vessels less than 60 feet (18.3 m) LOA using hook-and-line or pot gear, and 28,754 mt to trawl catcher vessels.

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. This requirement is 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 allow for harvests that exceed the originally specified apportionment of the Pacific cod TAC. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 24, 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: September 25, 2024.

Karen H. Abrams,

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

[FR Doc. 2024-22376 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 89, No. 189

Monday, September 30, 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.

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1005

[Docket No. CFPB–2024–0045]

Remittance Transfers Under the Electronic Fund Transfer Act (Regulation E)

AGENCY: Consumer Financial Protection Bureau.

ACTION: Proposed rule; request for public comment.

SUMMARY: The Consumer Financial Protection Bureau (CFPB) proposes a narrowly tailored amendment to certain remittance transfer disclosure requirements in the remittance rule in Regulation E (Remittance Rule or Rule), which implements the Electronic Fund Transfer Act, and certain accompanying model forms, to ensure that consumers sending a remittance transfer have information about the types of inquiries that may be most efficient to direct to the CFPB and the State agency that licenses or charters their remittance transfer provider.

DATES: Comments must be received on or before November 4, 2024.

ADDRESSES: You may submit comments, identified by Docket No. [CFPB–2024–0045], by any of the following methods:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. A brief summary of this document will be available at <https://www.regulations.gov/docket/CFPB-2024-0045>.

- **Email:** 2024-NPRM-Remittances@cfpb.gov. Include Docket No. CFPB–2024–0045 in the subject line of the message.

- **Mail/Hand Delivery/Courier:** Comment Intake—2024 NPRM REMITTANCES, c/o Legal Division Docket Manager, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552. Because paper mail in the Washington, DC, area and at the CFPB is subject to delay,

commenters are encouraged to submit comments electronically.

Instructions: The CFPB encourages the early submission of comments. All submissions must include the document title and docket number. In general, all comments received will be posted without change to <https://www.regulations.gov>. All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Proprietary information or sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

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:

I. Background

One of the primary functions of the CFPB is collecting, investigating, and responding to consumer complaints.¹ The Office of Consumer Response, created by the CFPB under the Dodd-Frank Act, maintains procedures to provide a timely response to consumers,² in writing, to complaints against³ or inquiries concerning a covered person.⁴ In 2022, the CFPB received approximately 1,287,300 consumer complaints.⁵

The Electronic Fund Transfer Act (EFTA) provides a basic framework for rights, protections, liabilities and responsibilities of consumers and

providers in electronic fund transfer systems and remittance transfers. Section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act)⁶ established a comprehensive system of consumer protections for remittance transfers sent by consumers in the United States to individuals and businesses in foreign countries by adding section 919 to the EFTA which provided for their regulation under the Act. The Dodd-Frank Act required rules implementing section 919 of the EFTA to be issued within 18 months of Dodd-Frank's enactment.⁷ Among other provisions, section 919 of the EFTA requires remittance transfer providers to make disclosures to senders of remittance transfers, pursuant to rules prescribed by the CFPB. Specifically, section 919 requires remittance transfer providers to provide the sender with a receipt at the time of payment showing, among other things, the appropriate contact information for “the State agency that regulates the remittance transfer provider and the [CFPB].”⁸ The Board of Governors of the Federal Reserve System (Federal Reserve Board) tested and proposed disclosures implementing this requirement prior to transferring rulemaking authority to the CFPB on July 21, 2011.⁹ On February 7, 2012, the CFPB issued a final rule with this disclosure essentially as proposed by the Federal Reserve Board.¹⁰ The disclosure requirements for receipts issued by remittance transfer providers to senders are codified in subpart B to Regulation E, at section 1005.31(b)(2).¹¹ These disclosures also appear on the model forms that accompany this requirement.

As relevant here, the Remittance Rule requires remittance transfer providers to provide on applicable disclosures, including the receipt and combined disclosure, a “statement about the rights of the sender regarding the resolution of errors and cancellation,” the contact information of the remittance transfer

¹ 12 U.S.C. 5511(c)(2).

² 12 U.S.C. 5481(4) (“The term ‘consumer’ means an individual or an agent, trustee, or representative acting on behalf of an individual.”).

³ For the purpose of its handling of consumer complaints (and solely for that purpose), the CFPB defines consumer complaints as submissions that express dissatisfaction with, or communicate suspicion of wrongful conduct by, an identifiable entity related to a consumer's personal experience with a financial product or service.

⁴ 12 U.S.C. 5534(a).

⁵ See CFPB, 2022 Consumer Response Annual Report (Mar. 31, 2023), https://files.consumerfinance.gov/f/documents/cfpb_2022-consumer-response-annual-report_2023-03.pdf.

⁶ Public Law 111–203, 124 stat. 1376 (2010).

⁷ See Proposed Rule, 76 FR 29902, 29906 (May 23, 2011).

⁸ 15 U.S.C. 1693o–1(a)(2)(B)(ii)(II)(bb).

⁹ See 76 FR 29902 at 29906.

¹⁰ See Final Remittance Rule, 77 FR 6194, 6228–29 (Feb. 7, 2012).

¹¹ 12 CFR 1005.31(b)(2). Additional disclosure requirements for subsequent transfers in a series of preauthorized remittance transfers are codified in section 1005.36(d)(1). See 12 CFR 1005.31(d)(1).

provider,¹² and a “statement that the sender can contact the State agency that licenses or charters the remittance transfer provider with respect to the remittance transfer and the Consumer Financial Protection Bureau for questions or complaints about the remittance transfer provider.”¹³

In its notice of proposed rulemaking with respect to implementing EFTA section 919, the Federal Reserve Board noted that with respect to this statement, many consumer testing participants stated that they would call the applicable State regulator, the CFPB, or both to resolve any problems that the remittance transfer provider did not resolve.¹⁴ But the CFPB’s experience since the Remittance Rule became effective suggests that this likely causes consumers to contact the CFPB with questions that are more appropriately directed to the remittance transfer provider in the first instance, and indeed, such questions can often only be answered by the remittance transfer provider because they are customer inquiries related to a particular transfer for which the CFPB lacks knowledge. Historically, following the implementation of the Remittance Rule, as many as 35 percent of the total telephone calls received by the CFPB’s toll-free number have been these type of questions about remittance transfers. Recent estimates show that in 2023, the CFPB received approximately 1,800 calls per month with questions of this sort.

The CFPB proposes amending the disclosure requirements and corresponding model forms A–31, A–32, A–34, A–35, A–37, A–39, and A–40 so that, rather than stating that the sender can contact the State licensing agency of the remittance transfer provider and the CFPB with questions or complaints about the remittance transfer provider, the revised disclosure statement would state that the sender can contact the State licensing agency and the CFPB if the sender has unresolved problems with the remittance transfer or complaints about the remittance transfer provider. This amendment will help ensure that senders are more clearly informed about whom it could be more efficient to contact first in each situation.

Related to this proposed amendment, the CFPB also proposes amending model forms A–30(a)–(d), A–31, A–32, A–33, A–34, A–35, A–38, A–39, and A–40 to make remittance transfer provider contact information more prominent

and easier to locate by consumers. The proposed amendments update the remittance transfer provider contact information in the header of the model forms by adding the remittance transfer provider phone number and website. The proposed amendments also update the model forms for receipts and combined disclosures—A–31, A–32, A–34, A–35, A–39, and A–40—adding a footer with the remittance transfer provider name, phone number, website, and address. By making the contact information easier to locate, the CFPB aims to prevent consumers from confusing the State licensing agency and the CFPB contact information with the remittance transfer provider’s contact information. In addition, the CFPB proposes other minor amendments to formatting or to promote consistency in model forms A–30(a)–(d), A–31, A–32, A–33, A–34, A–35, A–37, A–38, A–39, and A–40, as well as two corrections of spelling errors on Spanish language model forms A–39 and A–40, as discussed below.

I. Summary of the Proposed Rule

The CFPB is proposing to amend subpart B of Regulation E, at section 1005.31(b)(2)(vi),¹⁵ to require that applicable disclosures, including the receipt and combined disclosure, inform senders of remittance transfers that they can contact the State licensing agency of the remittance transfer provider and the CFPB with unresolved problems with the transfer or complaints about the remittance transfer provider, instead of the current statement that informs senders that they can contact such agencies with questions or complaints. Additionally, the CFPB proposes conforming changes to this statement on model forms A–31, A–32, A–34, A–35, A–37, A–39, and A–40 provided in appendix A to Regulation E. The CFPB has tested model disclosures with this language. The CFPB seeks comment on whether the proposed changes will provide helpful information to senders and what, if any, impact these proposed changes may have on consumers, remittance transfer providers, and State licensing agencies. This proposed rule is limited to the narrow issue of amending the required language relating to senders contacting the State licensing agency and the CFPB, with a related minor change to certain model forms to make a remittance transfer provider’s contact information easier to locate, and a few minor changes to certain model forms for formatting and consistency. Comments relating to other topics relevant to remittance transfers,

Regulation E, the EFTA, or any other topic are outside the scope of this proposed rulemaking.

In addition to the model form changes that correspond to changes in Regulation E, the CFPB also proposes the minor change to A–30(a)–(d), A–31, A–32, A–33, A–34, A–35, A–37, A–38, A–39, and A–40 to make a remittance transfer provider’s contact information easier to locate. Specifically, the CFPB proposes updating the model form header to include phone number and website. Additionally, for the receipt and combined disclosure model forms—A–31, A–32, A–34, A–35, A–39, and A–40—the CFPB proposes adding a footer with the remittance transfer provider’s contact information, including name, phone number, website, and address, to make the contact information easier to locate for consumers in these disclosures.

The CFPB also proposes the formatting amendments and other amendments that promote consistency across model forms A–30(a)–(d), A–31, A–32, A–33, A–34, A–35, A–37, A–38, A–39, and A–40. This includes updating the year in “Today’s Date” and “Date Available” to “2024” across model forms to A–30(a)–(d), A–31, A–32, A–33, A–34, A–35, A–38, A–39, and A–40. This also includes updating the formatting, which includes spacing and alignment, and font to make them consistent across model forms A–30(a)–(d), A–31, A–32, A–33, A–34, A–35, A–37, A–38, A–39, and A–40. Additionally, the CFPB proposes updates to model forms A–39 and A–40 to correct the Spanish language words “transaccion” and “Mexico” to include an appropriate accent and read “transacción” and “México,” respectively.

II. Consumer Testing

To help ensure that the proposed change to the statement required by § 1005.31(b)(2)(vi) would aid in consumer understanding, the CFPB conducted user testing, which included open-ended questions and usability testing¹⁶ of the proposed revised statement on English-language model disclosures, with consumers.¹⁷ During testing, consumers were presented with different iterations of these model disclosures, including the proposed updated statement language. The CFPB

¹⁶ See 5 CFR 1320.3(h)(3).

¹⁷ More specifically, the CFPB conducted user testing on English-language model disclosures. The CFPB conducted user testing with nine consumers. As described below, testing involved only open-ended questions and direct observation of how consumers interacted with, understood, and found information on the model disclosure.

¹² 12 CFR 1005.31(b)(2)(iv), (v).

¹³ 12 CFR 1005.31(b)(2)(vi).

¹⁴ 76 FR 29902, 29914 (May 11, 2011).

¹⁵ 12 CFR 1005.31(b)(2)(vi).

directly observed how consumers would use these updated model disclosures while consumers explained the thought process behind their decisions. The CFPB used open-ended questions to understand consumers' prior history with remittance transfers, actions taken when issues arose with a remittance transfer, and how the updated model disclosure would change their course of action. The CFPB's approach to user testing supported opportunities for additional probing with non-standard follow-up questions to more deeply understand where consumers would look for information on the model disclosure, how they might interpret the language, and what parts of the model disclosure might be confusing and improved over the course of testing. Broadly, this technique helped the CFPB to understand if the model disclosure was meeting consumer needs and to respond quickly with revisions based on feedback.

User testing participants included a mix of people who had some experience with remittance transfers and people who did not have such experience but planned to send money abroad in the next year. Participants were presented with a hypothetical scenario of having a problem with a remittance transfer and needing to find steps to get it resolved using the model disclosure. Participants were also asked about the clarity of information on the proposed updated model disclosure and their understanding of the content.

All participants interacting with the model disclosure in the testing described above indicated that they would contact the remittance transfer provider first with any questions or concerns about the remittance transfer. The participants also all indicated that they found the disclosures clear, including about whom they could contact if they had questions or concerns.

III. Legal Authority

Section 1073 of the Dodd-Frank Act created a new section 919 of the EFTA and requires remittance transfer providers to provide disclosures to senders of remittance transfers, pursuant to rules prescribed by the CFPB.¹⁸ In addition to the statutory mandates set forth in the Dodd-Frank Act, EFTA section 904(a) authorizes the CFPB to prescribe regulations necessary to carry out the purposes of the title. The express purposes of the EFTA, as amended by the Dodd-Frank Act, are to establish "the rights, liabilities, and responsibilities of participants in

electronic fund and remittance transfer systems" and to provide "individual consumer rights." EFTA section 902(b). The model forms in appendix A were adopted pursuant to EFTA section 904(a).¹⁹

EFTA section 919(a)(2)(A) and (B) require a remittance transfer provider to provide to a sender a written prepayment disclosure with certain information, as well as a written receipt that includes the information provided on the prepayment disclosure, plus the promised date of delivery, contact information for the designated recipient, information regarding the sender's error resolution rights, and contact information for the remittance transfer provider and applicable regulatory agencies.²⁰ EFTA section 919(a)(5)(C) also authorizes the CFPB to permit a remittance transfer provider to provide a single written disclosure to a sender, instead of a prepayment disclosure and receipt, that accurately discloses all of the information required on both the prepayment disclosure and the receipt. Section 1005.31(b)(1) and (2) provide these substantive disclosure requirements for pre-payment disclosures and receipts, respectively.²¹ Section 1005.31(b)(2)(vi) provides for disclosure of a statement that the sender can contact the State agency that regulates the remittance transfer provider and the CFPB for questions or complaints about the remittance transfer provider, using language set forth in model form A-37 of appendix A or substantially similar language.²² The CFPB also authorized remittance transfer providers to use a combined disclosure, in lieu of the prepayment disclosure and receipt, subject to the requirements in § 1005.31(b)(3).²³

IV. Effective Date

The CFPB proposes that the final rule, if adopted, would take effect 60 days after publication in the **Federal Register** with respect to new disclosures made on or after that date. Remittance transfer providers would not be required to send updated disclosures with respect to disclosures made before that date. The CFPB solicits comments on whether the CFPB should provide a mandatory compliance date that is after the effective date of the proposed changes. Do remittance transfer providers need additional time after the effective date to

implement the required changes to their disclosures, including to translate the new statement into new languages? Are there any other steps that will be required to implement the change, and if so, how much time is needed to take those steps?

V. CFPB Section 1022(b) Analysis

A. Overview

In developing this proposed rule, the CFPB has considered the proposed rule's potential benefits, costs, and impacts per section 1022(b)(2)(A) of the Consumer Financial Protection Act of 2010 (CFPA). The CFPB requests comment on the preliminary analysis presented below and submissions of more data that could inform the CFPB's analysis of the potential benefits, costs, and impacts. In developing the proposed rule, the CFPB has consulted or offered to consult with the appropriate prudential regulators and other Federal agencies, including about the consistency of this proposed rule with any prudential, market, or systemic objectives administered by those agencies, in accordance with section 1022(b)(2)(B) of the CFPA.

B. Goals

The goal of this proposed rule is to modify how consumers are informed that they can contact a State licensing agency and the CFPB about their remittance transfer. The new language proposed in this rule intends to ensure consumers are informed about the entity they can contact with questions about their remittance transfer, particularly when the remittance transfer provider would be best suited to answer their question or concern, rather than the State licensing agency or the CFPB. The proposed rule also updates model forms to make remittance transfer provider contact information more prominent and easier to locate by consumers.

C. Data Limitations and Quantification of Benefits, Costs, and Impacts

The discussion below relies on information the CFPB has obtained from industry, other regulatory agencies, and publicly available sources. These sources form the basis for the CFPB's consideration of the likely impacts of the proposed rule. The CFPB provides estimates, to the extent possible, of the potential benefits and costs to consumers and covered persons of this proposal given available data.

The specific data sources that inform this discussion include public Federal Financial Institutions Examination Council (FFIEC) and National Credit Union Association (NCUA) call report

¹⁹ See *id.*

²⁰ See 77 FR 6194 at 6218.

²¹ See *id.* Additional disclosure requirements for subsequent transfers in a series of preauthorized remittance transfers are codified in section 1005.36(d)(1). See 12 CFR 1005.31(d)(1).

²² See 77 FR 6194 at 6228–29.

²³ See 77 FR 6194 at 6228, 6229–30.

¹⁸ See 77 FR 6194 at 6204.

data, annual reports produced by the Conference of State Bank Supervisors (CSBS) using Nationwide Multistate Licensing System (NMLS) data, research published by the World Bank, internal data from the CFPB's Office of Consumer Response, and previous CFPB rulemaking experience with regards to remittance transfers.

Several important data limitations impact the CFPB's determination of the proposed rule's benefits, costs, and impacts. Most importantly, the CFPB lacks specific information on exact amount of employee time that remittance transfer providers will have to expend to update disclosure statement with the language proposed in this rule. In addition, data on money transmitters are typically limited to national aggregates, which impacts the ability of the CFPB to examine money transmitters in more detail. There are also limited consumer or transaction-level data available on remittance transfers, which impact some analysis where the CFPB would ideally examine remittance transfer consumers by subgroups.

While CFPB acknowledges these data limitations, the analysis below provides quantitative estimates where possible and a qualitative discussion of the proposed rule's benefits, costs, and impacts. General economic principles and the CFPB's expertise, together with the available data, provide insight into these benefits, costs, and impacts. The CFPB requests additional data or studies that could help quantify the benefits and costs to consumers and covered persons of the proposed rule.

D. Baseline for Analysis

To evaluate the proposal's benefits, costs, and impacts, the CFPB measures the proposal's benefits, costs, and impacts against a baseline in which the CFPB would take no action. This baseline assumes that, in the absence of the proposed change to the statement, remittance transfer providers would continue complying with the disclosure requirements as codified in subpart B to Regulation E, at section 1005.31(b)(2).²⁴ This means that providers would continue using the statement that the sender should contact the State licensing agency and the CFPB with questions or complaints about the remittance transfer provider. The baseline also assumes that all other requirements under Regulation E remain unchanged.

E. Potential Benefits and Costs to Consumers and Covered Persons

1. Potential Benefits and Costs to Covered Persons

The relevant covered persons for the purposes of this proposed rule are remittance transfer providers as defined in the Remittance Rule. The Rule provides that the term "remittance transfer provider" means any person that provides remittance transfers for a consumer in the normal course of its business, regardless of whether the consumer holds an account with such consumer. The Rule also provides that a person is deemed not to be providing remittance transfers for a consumer in the normal course of its business if the person has provided 500 or fewer transfers in the current and previous calendar years.

Providers covered by the rule would be required to change the statement on relevant remittance transfer disclosures.

Data on depository institutions and the number of remittance transfers they provide are available from two sources. The first is the FFIEC Reports of Condition and Income, otherwise referred to as Call Reports. These data contain institution-level data on assets, the number of remittance transfers, and the value of remittance transfers for most FDIC insured institutions. Similarly, the NCUA collects Call Reports from NCUA-insured institutions, which contain data on assets and the number of remittance transfers.

According to FFIEC Call Reports, there were 4,587 banks as of Q4 2023.²⁵ Of these, 316 made over 500 remittance transfers in 2023 and would therefore not qualify for a safe harbor, and the CFPB assumes would be required to comply with the change in disclosure statement of the proposed rule. Similarly, as of Q4 2023, 167 of 4,702 credit unions made over 500 remittance transfers.²⁶ Therefore, of the 9,280 depository institutions, we expect that 483 will be covered by the proposed rule and will need to change the statement on relevant disclosures.

As of the end of 2022, 34 States, the District of Columbia, and Puerto Rico required their licensed companies to file an MSB Call report to NMLS with financial data from MSB companies.

The CSBS released a report on MSB Call Report data as of the end of 2022, including select information on money transmitters, the primary form of non-depository financial institution that would provide remittance transfers.²⁷ This report provides the best data available to measure the number of MSBs that might incur costs under this proposed rule.

As of the end of 2022, there were 612 licensed money transmitters reporting in NMLS. Of these, 359 reported money transmissions on their NMLS call reports. The CFPB assumes that these 359 money transmitters that are reporting money transmission would therefore incur the cost of updating disclosures with the new language of this proposed rule. Additionally, there were 482,050 active authorized agent relationships, where the agent is authorized to conduct financial services on behalf of the money transmitter. However, the CFPB believes that the vast majority of the cost of compliance with updating the disclosure statement will fall on money transmitter companies rather than their agents. The CFPB believes that large money transmitters are likely to facilitate compliance for their agents, achieve substantial benefits to scale, and widely leverage the systems and software investments required for compliance across a large base of agent locations. Therefore, the CFPB assumes the cost of compliance with the proposed rule will be negligible for money transmitter agents. The CFPB requests comment on this assumption about compliance costs for money transmitter agents.

The main costs for covered remittance transfer providers will be the direct cost required to change the statement made in future disclosures. Remittance transfer providers that are required to provide disclosures in a foreign language would also need to translate the statement into the appropriate foreign language.²⁸ (The CFPB understands that these disclosures are generally not pre-printed, as they contain transaction-specific information, and the CFPB is not proposing to require remittance transfer providers to send updated disclosures with respect to disclosures made before the rule's effective date.) The CFPB expects that this cost will primarily be

²⁵ See Fed. Fin. Insts. Examination Council, *Central Data Repository's Public Data Distribution*, <https://cdr.ffiec.gov/public/ManageFacsimiles.aspx> (last visited Mar. 26, 2024).

²⁶ See National Credit Union Administration, *Credit Union and Corporate Call Report Data*, <https://ncua.gov/analysis/credit-union-corporate-call-report-data/quarterly-data> (last visited Mar. 26, 2024).

²⁷ See Nationwide Licensing System, *2022 NMLS Money Services Businesses Report*, <https://mortgage.nationwidelicensing.org/about/Reports/2022%20MSB%20Annual%20Report.pdf>.

²⁸ The Remittance Rule's foreign language requirements for disclosures are set forth in 12 CFR 1005.31(g). Accordingly, providers that provide written disclosures in foreign languages will need to translate the statement.

²⁴ 12 CFR 1005.31(b)(2).

the employee time required to perform the changes and will be incurred once. The extent of the change is relatively small relative to the overall disclosure requirements, but it is possible that a remittance transfer provider might have to make the change across multiple delivery systems. This could include print receipts or forms, email templates, text message templates, internet or phone applications, or some combination thereof.

The CFPB lacks sufficient data to specifically estimate the exact cost of updating existing disclosures to comply with the proposed statement. Specific cost data from covered institutions is not generally available. In addition, data collected for the CFPB's previous Regulation E rulemaking efforts concerned the cost of transitioning to a new set of required disclosures, which would not be appropriate for estimating cost for this proposed rule relative to the baseline. Based on the procedures required to update the disclosures and the fact that it might be required to be done across multiple types of platforms, the CFPB assumes that covered institutions would incur a one-time cost of eight hours of employee time per institution. Therefore, the CFPB expects that the total of 842 covered entities will each incur the one-time cost of eight hours of employee time. This means 6,736 hours total of estimated one-time cost.

The CFPB estimates that this cost is relatively small compared to a remittance transfer provider's revenue from remittance transfers. Banks report the total value and number of remittance transfers on Call Reports. The average dollar value per transfer was \$6,631. A similar figure cannot be calculated from NCUA call reports, but the CFPB assumes credit unions would have a similar dollar value per transfer. According to the CSBS 2022 annual report, the average transmission amount for a foreign transaction was \$566 for non-depository money transmitters. According to data made by the World Bank Group, the average cost for a consumer to send a remittance transfer from the United States was 11.48 percent of the remittance transfer value for depository institutions and 5.33 percent for non-depositories.²⁹ For depositories, this means that the average (gross) revenue per transfer was about \$761 for depositories and \$30 for non-depository money transmitters. The

average hourly earnings for a private, non-farm employee in the financial activities industry in December 2023 was \$44.51.³⁰ Therefore, the CFPB expects the one-time cost to be less than the revenue from one transfer for depositories and less than the revenue from twelve transfers for non-depository money transmitters. This cost would be borne only once and the CFPB does not expect any cost from this proposed rule to be incurred in years after the implementation.

The CFPB requests comment on the above analysis of the costs of updating remittance transfer disclosures.

2. Potential Benefits and Costs to Consumers

There is an opportunity cost for consumers who contact their State licensing agency or the CFPB with questions or concerns about their remittance transfer that would have been better directed to remittance transfer providers. The time spent contacting these agencies could have been instead spent contacting the provider to resolve their concern or otherwise spent on valuable activity. In this way, the CFPB views the time saved by the consumer as a benefit of the proposed change in the disclosure statement.

As described above in section I, the CFPB's Office of Consumer Response estimates that the CFPB receives approximately 1,800 calls per month with questions related to remittance transfers that it is not best placed to answer. For these calls, the average call time is between 7 and 10 minutes. Using 8.5 minutes (the midpoint of 7 and 10) and 1,800 calls per month, the CFPB estimates the total time spent per year is equivalent to 183,600 minutes, or 3,060 hours where consumers call the CFPB's toll-free number seeking answers that the CFPB is not able to provide. Therefore, we estimate that the proposed amendment to Regulation E will save consumers about 3,060 hours, annually.

It is possible that the proposed new disclosure statement does not prevent all consumers from contacting the CFPB or State license agencies with such calls. In this case, the annual benefit described above would be an overestimate, as 3,060 hours annually would be the effect if all calls were redirected to the source best placed to answer questions or concerns. The consumer testing of section III suggests

that the new language will be effective at reducing consumers calling an agency first when the remittance transfer provider might be better to call first, but the full extent of the proposed language's effect on consumer behavior carries a degree of uncertainty. However, there is another sense in which the CFPB's estimate could be an underestimate. The CFPB lacks similar data on call volume and duration from State licensing agencies to whom consumers are also potentially directing questions that would be better posed to remittance transfer providers. If a significant amount of consumer time is spent contacting State agencies in a similar manner, then the above estimate could understate the potential benefits of the proposed rule, as it is only based on CFPB call data.

In addition to the opportunity cost of their time, the proposed rule may also save some consumers the frustration and stress caused by placing calls to agencies that are not best placed to answer their questions. Some consumers may be seeking assistance during a time of financial distress, in which timely assistance is important. The CFPB lacks sufficient data to quantify this benefit.

The CFPB does not expect consumers to directly bear any costs associated with the proposed rule. As noted above, the proposal would impose limited costs on remittance transfer providers. Firms are unlikely to raise prices as a consequence, given the minimal size of the cost increase. The CFPB requests comment on the above analysis of the benefits of updating remittance transfer disclosures.

3. Distribution of Consumer Impacts

The CFPB lacks specific data on remittance transfer senders to fully describe the potential distribution of consumer benefits. However, previous research has shown that remittance senders are much more likely to be recent immigrants.³¹ The top three destinations for remittance transfers sent from the United States in 2021 were Mexico, India, and Guatemala.³²

³¹ See Elizabeth Grieco, Patricia de la Cruz, Rachel Cortes & Luke Larsen, *Who in the United States Sends and Receives Remittances? An Initial Analysis of the Monetary Transfer Data from the August 2008 CPS Migration Supplement*, U.S. Census Working Paper No. 87, <https://www.census.gov/content/dam/Census/library/working-papers/2010/demo/POP-twps0087.pdf>.

³² KNOMAD, *World Bank Bilateral Remittance Matrix 2021* (Dec. 2022), <https://www.knomad.org/data/remittances>.

²⁹ See Figure 14, The World Bank Group, *Remittance Prices Worldwide Quarterly: An Analysis of Trends in Cost of Remittance Services*, https://remittanceprices.worldbank.org/sites/default/files/rpw_main_report_and_annex_q323_1101.pdf.

³⁰ See U.S. Bureau of Labor Statistics, *Table B-3. Average hourly and weekly earnings of all employees on private nonfarm payrolls by industry sector, seasonally adjusted*, <https://www.bls.gov/news.release/empsit.t19.htm>.

F. Potential Specific Impacts of the Proposed Rule on Depository Institutions and Credit Unions With \$10 Billion or Less in Total Assets

According to the Q4 2023 FFIEC Call Report, there are 4,429 banks with \$10 billion or less in total assets. Of these 4,429 banks, 201 made over 500 remittance transfers in 2023. According to the Q4 2023 NCUA Call Report, there are 4,681 credit unions with \$10 billion or less in total assets. Of these 4,681 institutions, 148 made over 500 remittance transfers in 2023. Therefore, of the 9,110 total depository institutions (banks + credit unions) with \$10 billion or less in assets, we expect that 349 will be required to make changes to existing disclosures under this proposed rule. As described above, the CFPB expects each of these institutions to spend eight hours of employee time to update existing disclosures and that this will occur once.

G. Potential Specific Impacts of the Proposed Rule on Consumer Access to Credit and on Consumers in Rural Areas

The CFPB does not expect the proposed rule regarding remittance transfer disclosures to have any effect on consumers' access to credit.

The CFPB is unaware of data on remittance transfer senders that would provide detail sufficient to estimate a specific effect of the proposed rule on consumers in rural areas. However, the CFPB does expect that consumers from rural areas who have questions about their remittance transfer will benefit from clarity as to which entity would be best positioned to address their concerns. The CFPB requests comment on potential impacts of the proposed rule on consumers in rural areas.

VI. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a final regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (SISNOSE). The CFPB is also subject to specific additional procedures under the RFA involving convening a panel to consult with small business representatives before proposing a rule for which an IRFA is required. An IRFA is not required for this proposal because the proposal, if adopted, would not have a SISNOSE.

Small institutions, for the purposes of the Small Business Regulatory Enforcement Fairness Act (SBREFA) of

1996, are defined by the Small Business Administration. Effective March 17, 2023, financial institutions with less than \$850 million in total assets are determined to be small. For non-depository money transmitters, the standard is \$47 million in receipts.³³

According to the Q4 2023 FFIEC Call Report, there are 3,422 banks with \$850 million or less in assets. Of the 3,422 banks, 1,237 made any remittance transfers and only 39 made over 500 remittance transfers in 2023. According to the Q4 2023 NCUA Call Report, there are 4,201 credit unions with \$850 million or less in assets. Of the 4,201 institutions, 1,208 made any remittance transfers and only 27 made over 500 remittance transfers in 2023. Therefore, of the 7,623 small depository institutions (banks and credit unions), we expect that 66 are both small and process enough remittance transfers such that they would be required to make changes to existing disclosures under the proposed rule.

The CFPB is unaware of data concerning receipts for money transmitters, specifically, but data from the 2017 Statistics of U.S. Businesses does provide the distribution of firms by receipts in the broader industry to which money transmitters would belong. Of all firms within the "Financial Transactions Processing, Reserve, and Clearinghouse Activities" industry, 95 percent would have receipts under \$50 million.³⁴ It is reasonable to assume that a similar proportion of money transmitters would be classified as small according to the value of their receipts. Of the 359 money transmitters in 2022 who documented any remittance transfer, we would expect around 341 to be considered small according to the SBA definition. The CFPB is unaware of similar data on agents, specifically, but believes that the vast majority would likely be considered small. However, as stated in section VI.E.1 above, the CFPB expects the cost of the updated disclosure statement to fall primarily on money transmitters and there to be a negligible effect on agents.

Based on these statistics and the cost estimates in section VI.E, the CFPB does not expect the proposed rule to have a significant effect on a substantial

number of small entities. The total of 407 small entities that the CFPB expects to be impacted by the proposed rule is 14.5 percent of the number of small entities that perform any remittance transfers (1,237 banks, 1,571 credit unions, and 359 money transmitters). In addition, the cost of employee time to change remittance transfer disclosures is likely a small fraction of annual remittance transfer income for an institution and should only be incurred once.

Accordingly, the Director hereby certifies that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities. Thus, neither an IRFA nor a small business review panel is required for this proposal. The CFPB requests comment on the analysis above.

VII. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are generally required to seek approval from the Office of Management and Budget (OMB) for information collection requirements prior to implementation. Under the PRA, the CFPB may not conduct or sponsor, and, notwithstanding any other provision of law, a person is not required to respond to, an information collection unless the information collection displays a valid control number assigned by OMB. As explained below, the CFPB has determined that this proposed rule does not contain any new or substantively revised information collection requirements other than those previously approved by OMB under that OMB control number. The proposed rule would amend 12 CFR part 1005 (Regulation E), which implements EFTA. The CFPB's OMB control number for Regulation E is 3170-0014.

The CFPB does not believe that this proposed rule would impose any new or substantively revised collections of information as defined by the PRA. The proposed rule would only require changes to the disclosures already required to be provided by remittance transfer providers. The CFPB welcomes comments on these determinations or other burden-related aspects of the proposal such as the burden of the information collections, their utility, or whether they substantially duplicate existing information collection requirements of other agencies. Comments should be submitted as outlined in the **ADDRESSES** section above. All comments will become a matter of public record.

³³ Based on the size-standards for "financial transactions processing, reserve, and clearinghouse activities" (NAICS code 522320). See U.S. Small Business Administration, *Table of Small Business Size Standards* <https://www.sba.gov/document/support-table-size-standards>.

³⁴ U.S. Census Bureau, *2017 SUSB Annual Data Tables by Establishment Industry, Data by Enterprise Receipts Size*, <https://www.census.gov/data/tables/2017/econ/susb/2017-susb-annual.html>.

List of Subjects in 12 CFR Part 1005

Automated teller machines, Banks, banking, Consumer protection, Credit unions, Electronic fund transfers, National banks, Remittance transfers, Reporting and recordkeeping requirements, Savings associations.

Authority and Issuance

For the reasons set forth above, the CFPB proposes to amend 12 CFR part 1005 as set forth below:

PART 1005—ELECTRONIC FUND TRANSFERS (REGULATION E)

■ 1. The authority citation for part 1005 continues to read as follows:

Authority: 12 U.S.C. 5512, 5581; 15 U.S.C. 1693b. Subpart B is also issued under 12 U.S.C. 5601 and 15 U.S.C. 1693o–1.

Subpart B—Requirements for Remittance Transfers

■ 2. Section 1005.31 is amended by revising paragraph (b)(2)(vi) to read as follows:

§ 1005.31 Disclosures

(b) (2) * * *

(vi) A statement that the sender can contact the State agency that licenses or charters the remittance transfer provider with respect to the remittance transfer and the Consumer Financial Protection Bureau if the sender has unresolved problems with respect to the remittance transfer or complaints about the remittance transfer provider, using language set forth in model form A–37 of appendix A to this part or substantially similar language. The disclosure must provide the name, telephone number(s), and website of the State agency that licenses or charters the remittance transfer provider with respect to the remittance transfer and the name, toll-free telephone number(s), and website of the Consumer Financial Protection Bureau; and

■ 3. Amend Appendix A to part 1005 by:

- a. Adding titles A–33 and A–38 in numerical order to the table of contents of the appendix; and
- b. Revising model forms A–30(a) through (d), A–31, A–32, A–33, A–34, A–35, A–37, A–38, A–39, and A–40.

The revisions and additions to read as follows:

Appendix A to Part 1005—Model Disclosure Clauses and Forms

A–33—Model Form for Pre-Payment Disclosures for Dollar-to-Dollar Remittance Transfers (§ 1005.31(b)(1))

A–38—Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged Into Local Currency—Spanish (§ 1005.31(b)(1))

BILLING CODE 4810–AM–P

A–30(a)—Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged Into Local Currency (§ 1005.31(b)(1))

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Today’s Date: March 3, 2024

NOT A RECEIPT

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
Transfer Taxes:	+\$3.00
Total:	\$110.00

Exchange Rate: US\$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	–30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient’s bank and foreign taxes.

A-30(b)—Model Form for Pre-Payment
Disclosures for Remittance Transfers
Exchanged Into Local Currency
(\$ 1005.31(b)(1))

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2024

NOT A RECEIPT

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
<u>Transfer Taxes:</u>	<u>+\$3.00</u>
Total:	\$110.00

Exchange Rate: US\$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
<u>Other Fees:</u>	<u>-30.00 MXN</u>
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to
fees charged by the recipient's bank
(Est. 40 MXN).

A-30(c)—Model Form for Pre-Payment
Disclosures for Remittance Transfers
Exchanged Into Local Currency
(\$ 1005.31(b)(1))

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2024

NOT A RECEIPT

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
<u>Transfer Taxes:</u>	<u>+\$3.00</u>
Total:	\$110.00

Exchange Rate: US\$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
<u>Other Fees:</u>	<u>-30.00 MXN</u>
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to
foreign taxes (Est. 10 MXN).

A-30(d)—Model Form for Pre-Payment
Disclosures for Remittance Transfers
Exchanged Into Local Currency
(\$ 1005.31(b)(1))

ABC Company

800-123-4567

www.abccompany.com

1000 XYZ Avenue

Anytown, Anystate 12345

Today's Date: March 3, 2024

NOT A RECEIPT

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
<u>Transfer Taxes:</u>	<u>+\$3.00</u>
Total:	\$110.00

Exchange Rate: US\$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
<u>Other Fees:</u>	<u>-30.00 MXN</u>
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank (Est. 30 MXN) and foreign taxes (Est. 10 MXN).

ABC Company

800-123-4567
 www.abccompany.com
 1000 XYZ Avenue
 Anytown, Anystate 12345

Today's Date: March 3, 2024

RECEIPT**SENDER:**

Pat Jones
 100 Anywhere Street
 Anytown, Anywhere 54321
 222-555-1212

RECIPIENT:

Carlos Gomez
 123 Calle XXX
 Mexico City
 Mexico

PICK-UP LOCATION:

ABC Company
 65 Avenida YYY
 Mexico City
 Mexico

Confirmation Code: ABC 123 DEF 456

Date Available: March 4, 2024

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
Transfer Taxes:	+\$3.00
Total:	\$110.00

Exchange Rate: US\$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
Other Fees:	-30.00 MXN
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

If you have unresolved problems with your money transfer or complaints about ABC Company, contact:

State Regulatory Agency
 800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
 855-411-2372
 855-729-2372 (TTY/TDD)
consumerfinance.gov/sending-money

ABC Company
 800-123-4567
 www.abccompany.com
 1000 XYZ Avenue
 Anytown, Anystate 12345

ABC Company

800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2024

SENDER:

Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

RECIPIENT:

Carlos Gomez
123 Calle XXX
Mexico City
Mexico

PICK-UP LOCATION:

ABC Company
65 Avenida YYY
Mexico City
Mexico

Confirmation Code: ABC 123 DEF 456

Date Available: March 4, 2024

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
<u>Transfer Taxes:</u>	<u>+\$3.00</u>
Total:	\$110.00

Exchange Rate: US\$1.00 = 12.27 MXN

Transfer Amount:	1,227.00 MXN
<u>Other Fees:</u>	<u>-30.00 MXN</u>
Total to Recipient:	1,197.00 MXN

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

If you have unresolved problems with your money transfer or complaints about ABC Company, contact:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2024

NOT A RECEIPT

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
<u>Transfer Taxes:</u>	<u>+\$3.00</u>
Total:	\$110.00

Transfer Amount:	\$100.00
<u>Other Fees:</u>	<u>-\$4.00</u>
Total to Recipient:	\$96.00

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2024

RECEIPT

SENDER:
Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

RECIPIENT:
Carlos Gomez
106 Calle XX
Mexico City
Mexico

PICK-UP LOCATION:
ABC Company
65 Avendida YYY
Mexico City
Mexico

Confirmation Code: ABC 123 DEF 456

Date Available: March 4, 2024

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
Transfer Taxes:	+\$3.00
Total:	\$110.00

Transfer Amount:	\$100.00
Other Fees:	-\$4.00
Total to Recipient:	\$96.00

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

If you have unresolved problems with your money transfer or complaints about ABC Company, contact:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Today's Date: March 3, 2024

SENDER:	RECIPIENT:
Pat Jones	Carlos Gomez
100 Anywhere Street	106 Calle XX
Anytown, Anywhere 54321	Mexico City
222-555-1212	Mexico
	PICK-UP LOCATION:
	ABC Company
	65 Avendida YYY
	Mexico City
	Mexico

Confirmation Code: ABC 123 DEF 456

Date Available: March 4, 2024

Transfer Amount:	\$100.00
Transfer Fees:	+\$7.00
Transfer Taxes:	+\$3.00
Total:	\$110.00

Transfer Amount:	\$100.00
Other Fees:	-\$4.00
Total to Recipient:	\$96.00

Recipient may receive less due to fees charged by the recipient's bank and foreign taxes.

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at 800-123-4567 or www.abccompany.com. You can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

If you have unresolved problems with your money transfer or complaints about ABC Company, contact:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

ABC Company
800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

* * * * *

BILLING CODE 4810-AM-C

A-37—Model Form for Error Resolution and Cancellation Disclosures (Short) (§ 1005.31(b)(2)(iv) and (b)(2)(vi))

You have a right to dispute errors in your transaction. If you think there is an error, contact us within 180 days at [insert telephone number] or [insert website]. You

can also contact us for a written explanation of your rights.

You can cancel for a full refund within 30 minutes of payment, unless the funds have been picked up or deposited.

If you have unresolved problems with your money transfer or complaints about [insert name of remittance transfer provider], contact:

State Regulatory Agency, 800-111-2222, www.stateregulatoryagency.gov.

Consumer Financial Protection Bureau, 855-411-2372, 855-729-2372 (TTY/TDD), www.consumerfinance.gov.

BILLING CODE 4810-AM-P

A-38—Model Form for Pre-Payment Disclosures for Remittance Transfers Exchanged Into Local Currency—Spanish (§ 1005.31(b)(1))

ABC Company

800-123-4567

www.abccompany.com

1000 XYZ Avenue

Anytown, Anystate 12345

Fecha: 3 de marzo de 2024

ESTE NO ES UN RECIBO

Cantidad de Envío:	\$100.00
Cargos por Envío:	+\$7.00
<u>Impuestos de Envío:</u>	<u>+\$3.00</u>
Total:	\$110.00

Tasa de Cambio: US\$1.00 = 12.27 MXN

Cantidad de Envío:	1,227.00 MXN
<u>Otros Cargos por Envío:</u>	<u>-30.00 MXN</u>
Total al Destinatario:	1,197.00 MXN

El beneficiario podría recibir menos dinero debido a las comisiones cobradas por el banco del beneficiario e impuestos extranjeros.

ABC Company

800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Fecha: 3 de marzo de 2024

RECIBO**REMITENTE:**

Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

DESTINATARIO:

Carlos Gomez
123 Calle XXX
Ciudad de México, D.F.
México

PUNTO DE PAGO:

ABC Company
65 Avenida YYY
Ciudad de México, D.F.
México

Código de Confirmación: ABC 123 DEF 456

Fecha Disponible: 4 de marzo de 2024

Cantidad de Envío:	\$100.00
Cargos por Envío:	+\$7.00
Impuestos de Envío:	+\$3.00
Total:	\$110.00

Tasa de Cambio: US\$1.00 = 12.27 MXN

Cantidad de Envío:	1,227.00 MXN
Otros Cargos por Envío:	-30.00 MXN
Total al Destinatario:	1,197.00 MXN

El beneficiario podría recibir menos dinero debido a las comisiones cobradas por el banco del beneficiario e impuestos extranjeros.

Usted tiene el derecho de discutir errores en su transacción. Si cree que hay un error, contáctenos dentro de 180 días al 800-123-4567 o www.abccompany.com. También puede contactarnos para obtener una explicación escrita de sus derechos.

Puede cancelar el envío y recibir un reembolso total dentro de 30 minutos de haber realizado el pago, a no ser que los fondos hayan sido recogidos o depositados.

Si tiene problemas sin resolver con su transferencia de dinero o quejas sobre ABC Company, póngase en contacto con:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
www.consumerfinance.gov

ABC Company
800-123-4567
www.abccompany.com
100 XYZ Avenue
Anytown, Anystate 12345

ABC Company

800-123-4567
www.abccompany.com
1000 XYZ Avenue
Anytown, Anystate 12345

Fecha: 3 de marzo de 2024

REMITENTE:

Pat Jones
100 Anywhere Street
Anytown, Anywhere 54321
222-555-1212

DESTINATARIO:

Carlos Gomez
123 Calle XXX
Ciudad de México, D.F.
México

PUNTO DE PAGO:

ABC Company
65 Avenida YYY
Ciudad de México, D.F.
México

Código de Confirmación: ABC 123 DEF 456

Fecha Disponible: 4 de marzo de 2024

Cantidad de Envío:	\$100.00
Cargos por Envío:	+\$7.00
Impuestos de Envío:	+\$3.00
Total:	\$110.00

Tipo de Cambio: US\$1.00 = 12.27 MXN

Cantidad de Envío:	1,227.00 MXN
Otros Cargos por Envío:	-30.00 MXN
Total al Destinatario:	1,197.00 MXN

El beneficiario podría recibir menos dinero debido a las comisiones cobradas por el banco del beneficiario e impuestos extranjeros.

Usted tiene el derecho de discutir errores en su transacción. Si cree que hay un error, contáctenos dentro de 180 días al 800-123-4567 o www.abccompany.com. También puede contactarnos para obtener una explicación escrita de sus derechos.

Puede cancelar el envío y recibir un reembolso total dentro de 30 minutos de haber realizado el pago, a no ser que los fondos hayan sido recogidos o depositados.

Si tiene problemas sin resolver con su transferencia de dinero o quejas sobre ABC Company, póngase en contacto con:

State Regulatory Agency
800-111-2222
www.stateregulatoryagency.gov

Consumer Financial Protection Bureau
855-411-2372
855-729-2372 (TTY/TDD)
consumerfinance.gov/envios

ABC Company
800-123-4567
www.abccompany.com
100 XYZ Avenue
Anytown, Anystate 12345

* * * * *

Rohit Chopra,

Director, Consumer Financial Protection Bureau.

[FR Doc. 2024–22004 Filed 9–27–24; 8:45 am]

BILLING CODE 4810–AM–C

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39****[Docket No. FAA–2024–2318; Project Identifier MCAI–2023–00981–E]****RIN 2120–AA64****Airworthiness Directives; Austro Engine GmbH Engines****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2023–20–03, which applies to certain Austro Engine GmbH Model E4 and E4P engines. AD 2023–20–03 requires repetitive engine oil analysis for aluminum content outside the acceptable limits and, if necessary, replacement of the pistons, piston rings, con-rods assembly, and crankcase or, as an alternative, replacement of the engine core. Since the FAA issued AD 2023–20–03, the manufacturer identified errors in the lists of affected engines and provided updated information, which prompted this proposed AD. This proposed AD would retain the requirements of AD 2023–20–03, add compliance times for additional affected engine serial numbers, and remove certain engine serial numbers from the applicability of the existing AD. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by November 14, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

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

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2024–2318; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI) any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Austro Engine GmbH material identified in this proposed AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A–2700 Weiner Neustadt, Austria; phone: +43 2622 23000; website: *austroengine.at*.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT:

Morton Lee, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (860) 386–1791; email: *morton.y.lee@faa.gov*.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2024–2318; Project Identifier MCAI–2023–00981–E” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt

from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Morton Lee, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2023–20–03, Amendment 39–22562 (88 FR 76104, November 6, 2023) (AD 2023–20–03), for certain Austro Engine GmbH Model E4 and E4P engines. AD 2023–20–03 was prompted by an MCAI originated by the European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union. EASA issued EASA AD 2022–0240R1, dated December 15, 2022 (EASA AD 2022–0240R1), to address reports of piston failures.

AD 2023–20–03 requires repetitive engine oil analysis for aluminum content outside the acceptable limits and, if necessary, replacement of the pistons, piston rings, con-rods assembly, and crankcase or as an alternative, replacement of the engine core. The FAA issued AD 2023–20–03 to prevent piston failure, which could result in loss of oil, loss of engine power, and reduced control of the airplane.

Actions Since AD 2023–20–03 Was Issued

Since the FAA issued AD 2023–20–03, EASA superseded EASA AD 2022–0240R1 and issued EASA AD 2023–0163, dated August 18, 2023 (EASA AD 2023–0163) (also referred to as the MCAI). The MCAI states that a manufacturer investigation into reports of piston failures determined that certain batches of pistons were manufactured with a dimensional deviation in the piston pin bore and in the piston diameter, which could cause piston failure, with consequent loss of oil, loss of engine power, and reduced control of the airplane. To address the unsafe condition, EASA issued EASA AD 2022–0240, dated December 6, 2022, to specify repetitive oil analyses and

replacement of the pistons, piston rings, con-rods assembly, and crankcase, or as an alternative, replacement of the engine core. EASA AD 2022–0240 also prohibited release to service of an airplane until receipt of the results for each oil analysis.

Since EASA AD 2022–0240 was issued, the manufacturer determined that aluminum levels outside of the acceptable limits would be found during the first oil analysis and would be unlikely to be found during subsequent oil analyses. As a result, EASA revised EASA AD 2022–0240 and issued EASA AD 2022–0240R1 to allow release to service of airplanes for a limited number of flight hours immediately after the second and subsequent oil samples are taken for analyses.

Since EASA AD 2022–0240R1 was issued, the manufacturer identified errors in the lists of affected engine serial numbers in the service information and issued Mandatory Service Bulletin No. MSB–E4–039/2, Revision 2, dated July 31, 2023, to revise the list of affected engine serial numbers, which prompted EASA to supersede EASA AD 2022–0240R1 with EASA AD 2023–0163, dated August 18,

2023. Since EASA issued EASA AD 2023–0163, the manufacturer revised the service information again and issued Mandatory Service Bulletin No. MSB–E4–039/3, Revision 3, dated November 22, 2023, to amend the labor efforts section.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2318.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Austro Engine GmbH Mandatory Service Bulletin No. MSB–E4–039/3, Revision 3, dated November 22, 2023, which identifies affected engine serial numbers and specifies procedures for oil analysis and replacement of the pistons, piston rings, con-rods assembly, crankcase, and engine core.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

These products have been approved by the aviation authority of another

country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and material referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would retain all of the requirements of AD 2023–20–03. This proposed AD would also add compliance times for additional affected engine serial numbers and remove certain engine serial numbers from the applicability of the existing AD, as specified in the material already described.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 357 engines installed on aircraft of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Oil analysis	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$30,345

The FAA estimates the following costs to do any necessary replacements that would be required based on the

results of the proposed inspection. The agency has no way of determining the

number of engines that might need these replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace engine core	35 work-hours × \$85 per hour = \$2,975	\$15,524	\$18,499
Replace pistons, piston rings, and con-rod assembly	65 work-hours × \$85 per hour = \$5,525	2,216	7,741
Replace pistons, piston rings, con-rod assembly, and crankcase.	75 work-hours × \$85 per hour = \$6,375	4,141	10,516

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII,

Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of

that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and

responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
- a. Removing Airworthiness Directive AD 2023–20–03, Amendment 39–22562 (88 FR 76104, November 6, 2023); and
 - b. Adding the following new airworthiness directive:

Austro Engine GmbH: Docket No. FAA–2024–2318; Project Identifier MCAI–2023–00981–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 14, 2024.

(b) Affected ADs

This AD replaces AD 2023–20–03, Amendment 39–22562 (88 FR 76104, November 6, 2023) (AD 2023–20–03).

(c) Applicability

This AD applies to Austro Engine GmbH Model E4 and E4P engines with an engine serial number (ESN) listed in Tables 1, 2, 3, and 4 of Austro Engine GmbH Mandatory Service Bulletin No. MSB–E4–039/3, Revision 3, dated November 22, 2023 (Austro MSB–E4–039/3).

(d) Subject

Joint Aircraft System Component (JASC) Code 8530, Reciprocating Engine Cylinder Section; 8550, Reciprocating Engine Oil System.

(e) Unsafe Condition

This AD was prompted by reports of piston failures and the determination that certain batches of pistons were manufactured with a dimensional deviation in the piston pin bore and piston diameter. The FAA is issuing this AD to prevent piston failure. The unsafe condition, if not addressed, could result in loss of oil, loss of engine power, and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For all affected engines, within the applicable compliance times specified in Table 1 to paragraph (g)(1) of this AD, perform an oil analysis in accordance with paragraph 2., Technical Details, Engine Oil Analysis of Austro MSB–E4–039/3, and do not return the engine to service until the results of the oil analysis have been determined.

TABLE 1 TO PARAGRAPH (g)(1)—OIL ANALYSIS FOR ALL AFFECTED ENGINES

Engine group	Compliance time	Interval
Group 1 and Group 3 engines that do not have an ESN identified in Table 2 to paragraph (g)(1) of this AD.	Within 15 flight hours (FHs) from December 11, 2023 (the effective date of AD 2023–20–03).	Before exceeding 50 FHs since last oil analysis.
Group 1 and Group 3 engines that have an ESN identified in Table 2 to paragraph (g)(1) of this AD.	Within 15 FHs from the effective date of this AD.	Before exceeding 50 FHs since last oil analysis.
Group 2 and Group 4 engines that do not have an ESN identified in Table 2 to paragraph (g)(1) of this AD.	Within 25 FHs from December 11, 2023 (the effective date of AD 2023–20–03).	Before exceeding 100 FHs since last oil analysis.
Group 2 and Group 4 engines that have an ESN identified in Table 2 to paragraph (g)(1) of this AD.	Within 25 FHs from the effective date of this AD.	Before exceeding 100 FHs since last oil analysis.

TABLE 2 TO PARAGRAPH (g)(1)—AFFECTED ESNs NOT INCLUDED IN AD 2023–20–03

Engine group	ESN	ESN	ESN	ESN
Group 1	E4–A–06367	E4–A–06248	.....	.....
Group 2	E4–C–06249	E4P–C–06185	.....	.....
Group 3	E4–A–05072	E4–A–05074	E4–A–05075	E4–A–05078
Group 3	E4–A–05079	E4–A–05080	E4–A–05081	E4–A–05082
Group 3	E4–A–05083	E4–A–05084	E4–A–05085	E4–A–05086
Group 3	E4–A–05087	.....	.....	.....
Group 4	E4–C–00559	E4–C–05089	E4–C–05090	E4–C–05091
Group 4	E4–C–05092	E4–C–05093	E4–C–05094	E4–C–05096
Group 4	E4–C–05098	E4–C–05099	E4–C–05100	E4–C–05101
Group 4	E4–C–05102	E4–C–05103	E4–C–05104	E4–C–05105
Group 4	E4–C–05106	E4–C–05107	E4–C–05108	E4–C–05109
Group 4	E4–C–05110	E4–C–05111	E4P–C–06073	.....

(2) Thereafter, repeat the oil analysis required by paragraph (g)(1) of this AD before exceeding the applicable interval specified in Table 1 to paragraph (g)(1) of this AD.

(3) Following each repetitive oil analysis, the engine may be returned to service for no more than the applicable interval specified in Table 1 to paragraph (g)(1) of this AD, until receipt of the oil analysis result.

(4) If the result of any oil analysis required by paragraph (g)(1) of this AD indicates the aluminum content of the oil is greater than the limit specified in paragraph 2., Technical Details, Engine Oil Analysis, Table 5—Oil

check analysis—Aluminum PPM allowable; of Austro MSB-E4-039/3, before further flight, replace the pistons, piston rings, con-rods assembly, and crankcase, or replace the engine core in accordance with paragraph 2., Technical Details, Engine core replacement;

or Pistons, piston rings, crankcase and con-rod assy replacement; as applicable, of Austro MSB-E4-039/3.

(5) For Group 3 and Group 4 engines, within the applicable compliance times specified in Table 3 to paragraph (g)(5) of this

AD, replace the pistons, piston rings, and con-rods assembly, or replace the engine core in accordance with paragraph 2., Technical Details, Engine core replacement; or Pistons, piston rings and con-rod assy replacement, as applicable, of Austro MSB-E4-039/3.

TABLE 3 TO PARAGRAPH (g)(5)—REPLACEMENT FOR GROUP 3 AND 4 ENGINES

Engine group	Compliance time
Group 3 engines that do not have an ESN identified in Table 2 to paragraph (g)(1) of this AD.	Before exceeding 900 FHs since new, or within 15 FHs after December 11, 2023 (the effective date of AD 2023-20-03), whichever occurs later.
Group 3 engines that have an ESN identified in Table 2 to paragraph (g)(1) of this AD.	Before exceeding 900 FHs since new, or within 15 FHs after the effective date of this AD, whichever occurs later
Group 4 engines that do not have an ESN identified in Table 2 to paragraph (g)(1) of this AD.	Before exceeding 1,000 FHs since new, or within 25 FHs after December 11, 2023 (the effective date of AD 2023-20-03), whichever occurs later.
Group 4 engines that have an ESN identified in Table 2 to paragraph (g)(1) of this AD.	Before exceeding 1,000 FHs since new, or within 25 FHs after the effective date of this AD, whichever occurs later.

Note 1 to paragraph (g)(5): FHs since new indicated in Table 3 to paragraph (g)(5) of this AD are FHs accumulated by the engine since first installation on an airplane or since last overhaul as of December 11, 2023 (the effective date of AD 2023-20-03) for Group 3 and 4 engines that do not have an ESN identified in Table 2 to paragraph (g)(1) of this AD, or as of the effective date of this AD for Group 3 and 4 engines that have an ESN identified in Table 2 to paragraph (g)(1) of this AD.

(h) Terminating Action

(1) Replacement of the pistons, piston rings, con-rods assembly, and crankcase, or replacement of the engine core, as specified in paragraph (g)(4) of this AD, constitutes terminating action for the repetitive oil analysis required by paragraph (g)(2) of this AD.

(2) Replacement of the pistons, piston rings, and con-rods assembly, or replacement of the engine core, as specified in paragraph (g)(5) of this AD, constitutes terminating action for the repetitive oil analysis required by paragraph (g)(2) of this AD.

(i) Definitions

For the purpose of this AD:

(1) Group 1 engines are engines having an ESN listed in Table 1 of No. MSB-E4-039/3.

(2) Group 2 engines are engines having an ESN listed in Table 2 of No. MSB-E4-039/3.

(3) Group 3 engines are engines having an ESN listed in Table 3 of No. MSB-E4-039/3.

(4) Group 4 engines are engines having an ESN listed in Table 4 of No. MSB-E4-039/3.

(j) Credit for Previous Actions

(1) You may take credit for the actions required by paragraph (g)(1), (4), or (5) of this AD, if you performed those actions before December 11, 2023 (the effective date of AD 2023-20-03) using Austro Engine GmbH Mandatory Service Bulletin No. MSB-E4-039/0, dated October 24, 2022.

(2) You may take credit for the actions required by paragraph (g)(1), (4), or (5) of this

AD if you performed those actions before the effective date of this AD using Austro Engine GmbH Mandatory Service Bulletin No. MSB-E4-039/2, Revision 2, dated July 26, 2023.

(k) No Return of Parts/Reporting Requirement

Although the service information specifies returning certain parts and submitting certain information to the manufacturer, this AD does not include those requirements.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (m)(1) of this AD and email to AMOC@faa.gov.

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

(m) Additional Information

(1) For more information about this AD, contact Morton Lee, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (860) 386-1791; email: morton.y.lee@faa.gov.

(2) Material identified in this AD that is not incorporated by reference is available at the address specified in paragraph (n)(3) of this AD.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Austro Engine GmbH Mandatory Service Bulletin No. MSB-E4-039/3, Revision 3, dated November 22, 2023.

(ii) [Reserved]

(3) For Austro Engine GmbH material identified in this AD, contact Austro Engine GmbH, Rudolf-Diesel-Strasse 11, A-2700 Weiner Neustadt, Austria; phone: +43 2622 23000; website: austroengine.at.

(4) You may view this material at FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222-5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on September 23, 2024.

Steven W. Thompson,

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

[FR Doc. 2024-22064 Filed 9-27-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2024-2320; Project Identifier MCAI-2024-00268-T]

RIN 2120-AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for

certain Airbus SAS Model A350–941 and –1041 airplanes. This proposed AD was prompted by an updated stress analysis on the forward (FWD) cargo door and its attachment piano hinges that revealed a risk of cracking and crack propagation on piano hinges 2 and 3, originating from opening-closing fatigue cycles of the FWD cargo door. This proposed AD would require an inspection of the affected parts, and applicable corrective actions, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by November 14, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- **Federal eRulemaking Portal:** Go to [regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- **Fax:** 202–493–2251.

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

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2320; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu. It is also available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2320.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Dat Le, Aviation Safety Engineer, FAA, 1600

Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email dat.v.le@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include “Docket No. FAA–2024–2320; Project Identifier MCAI–2024–00268–T” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to [regulations.gov](https://www.regulations.gov), including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email dat.v.le@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2024–0129, dated July 5, 2024 (also referred to as

the MCAI), to correct an unsafe condition for certain Airbus SAS Model A350–941 and –1041 airplanes. The MCAI states an update of the stress analysis resulted in a new definition of interface load distribution between the FWD cargo door and the associated fuselage piano hinges. Further investigation revealed a risk of cracking and crack propagation on the affected parts, originating from opening-closing fatigue cycles of the FWD cargo door. Under this condition, door operation could cause damage to the FWD cargo door surrounding structure.

The FAA is proposing this AD to address damage to the FWD cargo door surrounding structure, which could reduce the structural integrity of the airplane.

You may examine the MCAI in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2320.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0129 specifies procedures for performing a detailed inspection for cracks and damage (including dents, discoloration, punctures, nicks, and scratches) of the FWD cargo door piano hinges 2 and 3, and obtaining and following instructions for repair of cracks and damage. EASA AD 2024–0129 also specifies procedures for checking the condition and integrity of the temporary protection system (TPS) layer, if installed, removing any damaged TPS layer, and applying a new layer if the TPS layer was damaged, removed, or cleaned.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

This product has been approved by the aviation authority of another country and is approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2024–0129 described previously, except for any differences

identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA’s ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2024–0129 by

reference in the FAA final rule. This proposed AD would, therefore, requires compliance with EASA AD 2024–0129 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2024–0129 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is

not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2024–0129. Material required by EASA AD 2024–0129 for compliance will be available at *regulations.gov* under Docket No. FAA–2024–2320 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 28 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection (cargo door piano hinges) and TPS layer check.	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$2,380

The FAA has received no definitive data on which to base the cost estimates for the on-condition actions specified in this proposed AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:
Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

Airbus SAS: Docket No. FAA–2024–2320; Project Identifier MCAI–2024–00268–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 14, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus SAS Model A350–941 and –1041 airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2024–0129, dated July 5, 2024 (EASA AD 2024–0129).

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by an updated stress analysis on the forward (FWD) cargo door and its attachment piano hinges that revealed a risk of cracking and crack propagation on piano hinges 2 and 3, originating from opening-closing fatigue cycles of the FWD cargo door. The FAA is issuing this AD to address potential failure of the piano hinges due to cracking. The unsafe condition, if not addressed, could result in damage to the FWD cargo door surrounding structure and consequent reduced structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0129.

(h) Exceptions to EASA AD 2024–0129

- (1) Where EASA AD 2024–0129 refers to “16 May 2024 [the effective date of EASA AD 2024–0098],” this AD requires using the effective date of this AD.
- (2) Where paragraph (2) of EASA AD 2024–0129 specifies “if, during the DET as required by paragraph (1) of this AD, any crack or damage is detected, before next flight, contact Airbus for approved instructions and, within the compliance time specified therein,

accomplish those instructions accordingly.” this AD requires replacing that text with “if any crack or damage is detected, the crack or damage must be repaired before further flight using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.”

(3) This AD does not adopt the “Remarks” section of EASA AD 2024–0129.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs)*: The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD. Information may be emailed to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer*: For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, International Validation Branch, FAA; or EASA; or Airbus SAS’s EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Required for Compliance (RC)*: Except as required by paragraphs (h)(2) and (i)(2) of this AD, if any material referenced in EASA AD 2024–0129 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator’s maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Dat Le, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email dat.v.le@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2024–0129, dated July 5, 2024.

(ii) [Reserved]

(3) For EASA AD 2024–0129 identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email ADs@easa.europa.eu; website easa.europa.eu. You may find this EASA AD on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on September 23, 2024.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–22180 Filed 9–27–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. **FAA–2024–2322**; Project Identifier **MCAI–2024–00065–Q**]

RIN 2120–AA64

Airworthiness Directives; THOMMEN AIRCRAFT EQUIPMENT AG Digital Air Data Computers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain THOMMEN AIRCRAFT EQUIPMENT AG (THOMMEN) AC32 Digital Air Data Computers. This proposed AD results from occurrences of AC32 Digital Air Data Computers (ADCs) that stop functioning below certain temperatures. This proposed AD would require replacing an affected AC32 Digital ADC with a serviceable part. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by November 14, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR

11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal*: Go to regulations.gov. Follow the instructions for submitting comments.

- *Fax*: (202) 493–2251.

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

- *Hand Delivery*: Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. FAA–2024–2322; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For THOMMEN AIRCRAFT EQUIPMENT material identified in this proposed AD, contact THOMMEN AIRCRAFT EQUIPMENT AG, Hofackerstrasse 48, 4132 MuttENZ, Switzerland; phone: +41 (0) 61 965 22 22; email: sales@thommen.aero; website: thommen.aero.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT:

William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7301; email: 9-AVS-AIR-BACO-COS@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2024–2322; Project Identifier MCAI–2024–00065–Q” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other

information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD

2024–0024, dated January 24, 2024 (also referred to as the MCAI), to correct an unsafe condition on certain THOMMEN AC32 Digital ADCs. The MCAI states that there have been occurrences of certain AC32 Digital ADCs stopping functioning at temperatures below –20 degrees Celsius. The error is detectable and does not transmit erroneous data. The problem is caused by the power module and the affected units have been identified. This condition, if not addressed, could result in insufficient navigational data provided to the flight crew, resulting in reduced control of the aircraft. The MCAI requires removing from service each affected part and specifies that only serviceable parts as defined in the MCAI may be installed.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2322.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed THOMMEN AIRCRAFT EQUIPMENT Service Bulletin SB AC32/07, Revision 1.0, dated August 31, 2023 (THOMMEN SB AC32/07, Revision 1.0). This material specifies procedures for determining if an aircraft is equipped with an affected AC32 Digital ADC listed in Appendix A, determining if the actions specified in THOMMEN SB AC32/07, Revision 1.0, were already accomplished, and replacing any affected THOMMEN AC32 Digital ADC.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES section.

FAA’s Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require replacing affected AC32 Digital ADCs with serviceable parts. This proposed AD would also prohibit the installation of an affected AC32 Digital ADC on any aircraft.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 401 AC32 Digital ADCs that are installed on aircraft worldwide. The FAA has no way of determining how many of these ADC are installed on aircraft of U.S. registry.

The FAA estimates the following costs to comply with this proposed AD. These costs assume all 401 AC32 Digital ADCs are installed on aircraft of U.S. registry. The FAA expects a portion of the affected population to exist outside of the U.S. and the estimated costs to be lower.

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace affected AC32 Digital ADC	12 work-hours × \$85 per hour = \$1,020	\$4,477	\$5,497	\$2,204,297

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Thommen Aircraft Equipment AG: Docket No. FAA–2024–2322; Project Identifier MCAI–2024–00065–Q.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 14, 2024.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to THOMMEN AIRCRAFT EQUIPMENT AG (THOMMEN) AC32 Digital Air Data Computers (ADCs) having an affected part as defined in paragraph (f)(1) of this AD.

(2) This appliance is installed on, but not limited to, the following aircraft models specified in Table 1 to paragraph (c)(2) of this AD, certificated in any category.

TABLE 1 TO PARAGRAPH (C)(2)—APPLICABLE AIRCRAFT MODELS

Type certificate holder	Aircraft model
Airbus Defense and Space S.A. (type certificate previously held by Construcciones Aeronauticas, S.A.).	CN–235, CN–235–100, CN–235–200, and CN–235–300.
Airbus Helicopters	AS332C, AS332C1, AS332L, AS332L1, AS332L2.
Airbus Helicopters Deutschland GmbH (AHD)	EC635T2+.
Bell Textron Inc	212, 412, and 412EP.
Bombardier Inc	CL–600–1A11 (600).
Columbia Helicopters Inc	234.
General Atomics Aerotek Systems GmbH (type certificate formerly held by DORNIER LUFTFAHRT Inc.).	228–100, 228–101, 228–200, 228–201, 228–202, and 228–212.
Gulfstream Aerospace LP	Westwind Astra 1124 (serial numbers 004–0410).
International Air Response	C–130A.
Leonardo S.p.a	A109, A10A, A109A II, A109C, A109K2, A109S, 1099SP, and AW139.
Textron Aviation Inc	200, 300, 500, 501, 550, and 551.
Viking Air Limited	CL–215–6B11 (CL–215T Variant).

(3) This appliance is approved for installation and could be installed on various aircraft modified by Supplemental Type Certificate (STC) No. SR09595RC or ST01523WI.

(d) Subject

Joint Aircraft System Component (JASC) Code 3417, Air Data Computer.

(e) Unsafe Condition

This AD was prompted by occurrences of AC32 Digital ADCs stopping functioning due to the power module failing at temperatures below –20 degrees Celsius. The unsafe condition, if not addressed, could result in insufficient navigational data provided to the flight crew, resulting in reduced control of the aircraft.

(f) Definitions

For the purpose of this AD the definitions in paragraphs (f)(1) through (4) of this AD apply:

(1) Affected part: THOMMEN AC32 Digital ADCs, part numbers (P/N) AC32.10.21.10.XX, AC32.10.21.11.XX, AC32.11.21.10.XX, and AC32.11.21.11.XX (where XX represents any alpha/numerical sequence), and having a serial number (S/N) listed in Appendix A of THOMMEN AIRCRAFT EQUIPMENT Service Bulletin SB AC32/07, Revision 1.0, dated August 31, 2023 (THOMMEN SB AC32/07 Revision 1.0).

(2) Serviceable part: Any AC32.(X) Digital ADC that is not an affected part; or an affected part where the power module has

been replaced by THOMMEN, in accordance with the instructions of THOMMEN SB AC32/07 Revision 1.0.

(3) Group 1 aircraft: Have an affected part installed.

(4) Group 2 aircraft: Do not have an affected part installed but are eligible for AC32.(X) Digital ADC installation.

(g) Compliance

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

(h) Required Actions

For Group 1 aircraft: Within 12 months after the effective date of this AD, remove each affected part from service and replace it with a serviceable part in accordance with paragraph 3.A. of the Accomplishment Instructions in THOMMEN SB AC32/07 Revision 1.0, except where this material specifies to send the removed affected part to the manufacturer, this AD does not require that action.

(i) Parts Installation Prohibition

For Group 1 and 2 aircraft: As of the effective date of this AD, do not install an affected part on any aircraft.

(j) Special Flight Permits

A one-time special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199 in order to fly to a maintenance base to perform the required action in this AD,

provided a flight profile above –15 degrees Celsius (5 degrees Fahrenheit) is maintained.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Validation Branch, send it to the attention of the person identified in paragraph (l) of this AD and email to: AMOC@faa.gov. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(l) Additional Information

For more information about this AD, contact William Reisenauer, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (516) 228–7301; email: 9-AVS-AIR-BACO-COS@faa.gov.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) THOMMEN AIRCRAFT EQUIPMENT Service Bulletin SB AC32/07, Revision 1.0, dated August 31, 2023.

(ii) [Reserved]

(3) For THOMMEN AIRCRAFT EQUIPMENT material in this AD, contact THOMMEN AIRCRAFT EQUIPMENT AG, Hofackerstrasse 48, 4132 Muttenz, Switzerland; phone: +41 (0) 61 965 22 22; email: sales@thommen.aero; website: thommen.aero.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on September 24, 2024.

Steven W. Thompson,

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

[FR Doc. 2024-22251 Filed 9-27-24; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. **FAA-2024-2147**; Project Identifier **MCAI-2022-01515-R**]

RIN 2120-AA64

Airworthiness Directives; Airbus Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Helicopters Model EC 155B, EC155B1, SA-365N, SA-365N1, AS-365N2, and AS 365 N3 helicopters. This proposed AD was prompted by an engine compartment fire where the upper stiffener of the central firewall in the engine compartment was found damaged. This proposed AD would require replacing the aluminum central firewall stiffener with a titanium central firewall stiffener and prohibit installing an aluminum central firewall stiffener. These actions are specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by November 14, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- **Federal eRulemaking Portal:** Go to regulations.gov. Follow the instructions for submitting comments.

- **Fax:** (202) 493-2251.

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

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. **FAA-2024-2147**; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For EASA material identified in this proposed AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADS@easa.europa.eu; website: easa.europa.eu. You may find this material on the EASA website at ad.easa.europa.eu.

- You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110. The EASA material is also available at regulations.gov under Docket No. **FAA-2024-2147**.

Other Related Material: For Airbus Helicopters material identified in this proposed AD, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; phone (972) 641-0000 or (800) 232-0323; fax (972) 641-3775; or at airbus.com/en/products-services/helicopters/hcare-services/airbusworld.

FOR FURTHER INFORMATION CONTACT: Hye Yoon Jang, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-3758; email: Hye.Yoon.Jang@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. **FAA-2024-2147**; Project Identifier

MCAI-2022-01515-R” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hye Yoon Jang, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-3758; email: Hye.Yoon.Jang@faa.gov. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued European Union Aviation Safety Agency AD 2022-0231, dated November 28, 2022 (EASA AD 2022-0231), to correct an unsafe condition on Airbus Helicopters Model EC 155B, EC155B1, SA-365N, SA-365N1, AS-365N2, and AS 365 N3 helicopters.

This proposed AD was prompted by an engine fire where the upper stiffener of the central firewall, made of aluminum, in the engine compartment was found damaged. The FAA is proposing this AD to address failure of

a central firewall stiffener made of aluminum, possibly due to its inability to withstand high temperatures of an engine fire and subsequently not seal the engine compartment properly. In the event of an engine fire, the unsafe condition, if not addressed, could result in fire propagating from one engine compartment to the other and subsequent loss of control of the helicopter. See EASA AD 2022–0231 for additional background information.

You may examine EASA AD 2022–0231 in the AD docket at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2147.

Related Material Under 1 CFR Part 51

The FAA reviewed EASA AD 2022–0231 which requires replacing aluminum central firewall stiffeners with titanium central firewall stiffeners and prohibits installing an aluminum central firewall stiffener on any helicopter.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Other Related Material

The FAA reviewed Airbus Helicopters Alert Service Bulletin (ASB) No. AS365–71.00.28 and ASB No. EC155–71A015, each Revision 0 and dated October 25, 2022. This material specifies procedures for replacing the aluminum stiffener on the center firewall with a titanium stiffener.

FAA's Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the EASA AD referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of these same type designs.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2022–0231, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD

process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0231 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0231 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0231 does not mean that operators need comply only with that section. For example, where the AD requirement refers to "all required actions and compliance times," compliance with this AD requirement is not limited to the section titled "Required Action(s) and Compliance Time(s)" in EASA AD 2022–0231. Material referenced in EASA AD 2022–0231 for compliance will be available at [regulations.gov](https://www.regulations.gov) under Docket No. FAA–2024–2147 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 35 helicopters of U.S. Registry. Labor rates are estimated at \$85 per work-hour. Based on these numbers, the FAA estimates that operators may incur the following costs in order to comply with this proposed AD.

Replacing the aluminum central firewall stiffener with a titanium central firewall stiffener would take 7 work-hours and parts would cost \$1,737 to \$2,801 depending on part number for an estimated cost of \$2,332 to \$3,396 per helicopter and up to \$81,620 to \$118,860 for the U.S. fleet.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds

necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters: Docket No. FAA–2024–2147; Project Identifier MCAI–2022–01515–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 14, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Helicopters Model EC 155B, EC155B1, SA–365N, SA–365N1, AS–365N2, and AS 365 N3 helicopters, certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)
Code 5412, Nacelle/Pylon, Bulkhead/
Firewall.

(e) Unsafe Condition

This AD was prompted by an engine compartment fire where the upper stiffener of the central firewall, made of aluminum, in the engine compartment was found damaged. The FAA is issuing this AD to address failure of a central firewall stiffener made of aluminum, possibly due to its inability to withstand high temperatures of an engine fire and subsequently not seal the engine compartment properly. In the event of an engine fire, the unsafe condition, if not addressed, could result in fire propagating from one engine compartment to the other and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0231, dated November 28, 2022 (EASA AD 2022–0231).

(h) Exceptions to EASA AD 2022–0231

(1) Where EASA AD 2022–0231 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where EASA AD 2022–0231 refers to flight hours, this AD requires using hours time-in-service.

(3) Where the material referenced in EASA AD 2022–0231 specifies discarding certain parts, this AD requires removing those parts from service.

(4) Where the material referenced in EASA AD 2022–0231 states “If the bracket (f) is in unsatisfactory condition (DETAIL D);” for this AD, replace that text with “Inspect the bracket (f) (DETAIL D) for airworthy condition; for the purpose of this AD, an unairworthy condition may be indicated by corrosion, a crack, or wear. If the bracket (f) is in an unairworthy condition.”

(5) Where the material referenced in EASA AD 2022–0231 states to “Do a check of the cover strip (g) and the fireproof seal (h) to replace if necessary (SECTION B–B);” for this AD, replace that text with “Inspect the cover strip (g) and the fireproof seal (h) for airworthy condition. If the cover strip (g) or the fireproof seal (h) is in an unairworthy condition, remove each unairworthy part from service and replace it with a new (zero total hours time-in-service) part (SECTION B–B).”

(6) This AD does not adopt the “Remarks” section of EASA AD 2022–0231.

(i) No Reporting Requirement

Although the material referenced in EASA AD 2022–0231 specifies to submit certain information to the manufacturer, this AD does not require that action.

(j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: AMOC@faa.gov.

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

(k) Related Information

For more information about this AD, contact Hye Yoon Jang, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231–3758; email: Hye.Yoon.Jang@faa.gov.

(l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2022–0231, dated November 28, 2022.

(ii) [Reserved]

(3) For EASA material identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: ADs@easa.europa.eu; website: easa.europa.eu. You may find the EASA material on the EASA website at ad.easa.europa.eu.

(4) You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on September 17, 2024.

Victor Wicklund,

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

[FR Doc. 2024–22169 Filed 9–27–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. **FAA–2024–2321**; Project Identifier **MCAI–2024–00126–A**]

RIN 2120–AA64

Airworthiness Directives; DAHER AEROSPACE (Type Certificate Previously Held by SOCATA) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain DAHER AEROSPACE (DAHER) (type certificate previously held by SOCATA) Model TBM 700 airplanes. This proposed AD was prompted by reports of wear of the inner flap actuator drive nut. This proposed AD would require cleaning and lubricating the internal actuator rods, measuring the play between the drive nuts and the internal actuator rods, and if any play is found, replacing the drive nuts. This proposed AD would also allow replacing the drive nuts with certain other design drive nut as terminating action for the proposed requirements. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this NPRM by November 14, 2024.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- **Federal eRulemaking Portal:** Go to regulations.gov. Follow the instructions for submitting comments.

- **Fax:** (202) 493–2251.

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

- **Hand Delivery:** Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at regulations.gov under Docket No. **FAA–2024–2321**; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For DAHER AEROSPACE material identified in this proposed AD, contact DAHER AEROSPACE, Customer Support, Airplane Business Unit, Tarbes Cedex 9, France; phone: (833) 826-2273; email: tbmcare@daher.com; website: daher.com.

- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

FOR FURTHER INFORMATION CONTACT: Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-2346; email: fred.guerin@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2024-2321; Project Identifier MCAI-2024-00126-A” at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to regulations.gov, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and

actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2013-0104R3, dated February 20, 2024 (also referred to as the MCAI), to correct an unsafe condition on all DAHER AEROSPACE Model TBM 700 airplanes that do not have DAHER Modification (MOD) 70-0777-27 embodied in production. The MCAI states that wear of the inner flap actuator drive nut was detected, which could result in improper play between the actuator threaded rod and the drive nut with potential loss of flap control and consequent reduced or loss of control of the airplane. The MCAI requires cleaning and lubricating the internal actuator rods, measuring the play between the drive nuts and the internal actuator rods, and if any play is found, replacing the drive nuts. The MCAI also allows replacing the drive nuts with

newly designed drive nuts as terminating action for the repetitive cleaning, lubricating, and measuring for play.

You may examine the MCAI in the AD docket at regulations.gov under Docket No. FAA-2024-2321.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed Daher Aerospace Service Bulletin SB 70-118 Revision 3, dated December 2023. This material specifies procedures for cleaning and lubricating the internal actuator rods, measuring the play between the drive nut and the internal actuator rods, and replacing the drive nut. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA’s Determination

These products have been approved by the aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA’s bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and material referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the material already described.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 807 airplanes of U.S. registry.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Clean and lubricate left-hand (LH) and right-hand (RH) internal actuator rods.	1 work-hour × \$85 per hour = \$85, per cleaning and lubricating cycle.	\$0	\$85	\$68,595 per cleaning and lubricating cycle.
Measure the play for the LH and RH drive nuts.	1 work-hour × \$85 per hour = \$85, per measurement cycle.	0	\$85 per measurement cycle.	\$68,595 per measurement cycle.

If, during any proposed measurement for play, no discrepancy is found, operators have the option to replace the LH and RH drive nuts. If, during any

proposed measuring for play, any discrepancy is found, the LH and RH drive nuts must be replaced. Replacing the LH and RH drive nuts would be

terminating action for the proposed repetitive cleaning, lubricating, and measuring play. The FAA estimates the

following costs for replacing the LH and RH drive nuts:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replace drive nuts	4 work-hours × \$85 per hour = \$340	\$200	\$540

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

DAHER AEROSPACE (Type Certificate Previously Held by SOCATA): Docket No. FAA–2024–2321; Project Identifier MCAI–2024–00126–A.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by November 14, 2024.

(b) Affected ADs

None.

(c) Applicability

This AD applies to DAHER AEROSPACE (type certificate previously held by SOCATA) Model TBM 700 airplanes, all serial numbers, certificated in any category except those with DAHER Modification (MOD) 70–0777–27 installed during production.

(d) Subject

Joint Aircraft System Component (JASC) Code 2750, TE Flap Control System; 2752, TE Flap Actuator.

(e) Unsafe Condition

This AD was prompted by reports of wear of the inner flap actuator drive nut. The FAA is issuing this AD to prevent wear of the drive nut threading on the internal actuator flaps. The unsafe condition, if not addressed, could result in improper play between the actuator threaded rod and the drive nut, which could result in loss of flap control, resulting in reduced or loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) Clean and lubricate the left-hand (LH) and right-hand (RH) inner actuator rods in accordance with Paragraph C. in the Description of Accomplishment Instructions of Daher Aerospace Service Bulletin SB 70–118 Revision 3, dated December 2023 (Daher SB 70–118) within the compliance times identified in paragraph (g)(1)(i) or (ii) of this AD, whichever occurs later.

(i) Before the accumulation of 400 hours time-in-service (TIS) or 12 months, whichever occurs first, since the first installation of a LH and RH inner flap actuator, and thereafter at intervals not to exceed 400 hours TIS or 12 months, whichever occurs first.

(ii) Within 10 hours TIS after the effective date of this AD and thereafter at intervals not to exceed 400 hours TIS or 12 months, whichever occurs first.

(2) Within the compliance time identified in paragraph (g)(2)(i) or (ii) of this AD, whichever occurs later, and thereafter, at intervals not to exceed 400 hours TIS or 12 months, whichever occurs first, for each inner flap actuator, measure the play between the drive nut and the internal actuator rod in accordance with Section A, Paragraphs (1) through (9), in the Description of Accomplishment Instructions of Daher SB 70–118. Where Section A, Paragraph (3), in the Description of Accomplishment Instructions of Daher SB 70–118 specifies "With the help of a second operator" this AD requires this action be performed by persons authorized under 14 CFR 43.3.

(i) 3,000 hours TIS since first installation of the inner flap actuator on your airplane.

(ii) 400 hours TIS or 12 months, whichever occurs first since the last play measurement accomplished for that inner flap actuator in accordance with Section A, Paragraphs (1) through (9), in the Description of Accomplishment Instructions of Daher SB 70–118.

(3) If, during any measurement required by paragraph (g)(2) of this AD, any play is found, as identified in Section A, Paragraphs (8)(b) and (9)(b), of the Description of Accomplishment Instructions, Daher SB 70–118, before further flight, accomplish the applicable corrective actions in accordance with Section A, Paragraphs (10) through (15) and (17), and Section C, Paragraph (1), in the Description of Accomplishment Instructions of Daher SB 70–118. Where Section B, Paragraph (4), in the Description of Accomplishment Instructions of Daher SB 70–118, specifies to discard an old drive nut, this AD requires removing the old drive nut from service.

(4) If, during any measurement as required by paragraph (g)(2) of this AD, no play is found, as identified in Section A, Paragraphs (8)(a) and (9)(a), in the Description of Accomplishment Instructions of Daher SB 70–118, before further flight, accomplish the actions in accordance with Section A, Paragraphs (13) through (15) and (17), and Section C, Paragraph (1), in the Description of Accomplishment Instructions of Daher SB 70–118.

(h) Terminating Action

Replacing the drive nuts in accordance with Section B, Paragraphs (1) through (10), in the Description of Accomplishment Instructions of Daher SB 70-118, constitutes terminating action for all of the actions required by paragraphs (g)(1) and (2) of this AD, provided, after that replacement, no LH flap actuator having part number (P/N) 1-5295-B or RH flap actuator having P/N 2-5295-B is installed. Where Section B, Paragraph (4) in the Description of Accomplishment Instructions of Daher SB 70-118, specifies to discard an old drive nut, this AD requires removing the old drive nut from service.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, mail it to the address identified in paragraph (j) of this AD or email to: AMOC@faa.gov. If mailing information, also submit information by email. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local Flight Standards District Office/certificate holding district office.

(j) Additional Information

For more information about this AD, contact Fred Guerin, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: (206) 231-2346; email: fred.guerin@faa.gov.

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Daher Aerospace Service Bulletin SB 70-118, Revision 3, dated December 2023.

(ii) [Reserved]

(3) For DAHER AEROSPACE material identified in this AD, contact DAHER AEROSPACE, Customer Support, Airplane Business Unit, Tarbes Cedex 9, France; phone: (833) 826-2273; email: tbmcare@daher.com; website: daher.com.

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (817) 222-5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations or email fr.inspection@nara.gov.

Issued on September 24, 2024.

Victor Wicklund,

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

[FR Doc. 2024-22209 Filed 9-27-24; 8:45 am]

BILLING CODE 4910-13-P

CONSUMER PRODUCT SAFETY COMMISSION**16 CFR Part 1250**

[CPSC Docket No. CPSC-2024-0023]

**Notice of Proposed Rulemaking:
Safety Standard for Toys:
Requirements for Toys Containing
Button Cell or Coin Cell Batteries;
Extension of Comment Period**

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On August 13, 2024, the Consumer Product Safety Commission (CPSC) published in the **Federal Register** a notice of proposed rulemaking (NPR) to address the risks of death and injury associated with children ingesting button cell or coin cell batteries obtained from toys by adding performance and labeling requirements for battery-operated toys containing such batteries. The NPR invited the public to submit written comments during a 60-day comment period ending on October 15, 2024. Due to delay in releasing incident data supporting the NPR, the Commission is extending the comment period for this NPR by 30 days.

DATES: The comment period for the proposed rule published, August 13, 2024, at 89 FR 65791, is extended. Submit comments by November 14, 2024.

ADDRESSES: Submit comments, identified by Docket No. CPSC-2024-0023, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: <https://www.regulations.gov>. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by email, except through www.regulations.gov. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/Hand Delivery/Courier/Confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East-West Highway,

Bethesda, MD 20814; (301) 504-7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: cpsc-os@cpsc.gov.

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to <https://www.regulations.gov>. Do not submit through this website: Confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: <https://www.regulations.gov>, and insert the docket number, CPSC-2024-0023, into the "Search" box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT:

Benjamin Mordecai, Project Manager, Division of Mechanical Engineering, Directorate for Laboratory Sciences, Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; Telephone 301-987-2506; email: bmordecai@cpsc.gov.

SUPPLEMENTARY INFORMATION:**A. Background**

Pursuant to section 106 of the Consumer Product Safety Improvement Act of 2008 (15 U.S.C. 2056b(a)), the Commission is required to promulgate toy safety standards that are more stringent than the applicable voluntary standard—ASTM F963, *Standard Consumer Safety Specification for Toy Safety*—if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the product, as well as to periodically review and revise the rules set forth under section 106 to ensure that such rules provide the highest level of safety for such products that is feasible. 15 U.S.C. 2056b(c) and (d).

Accordingly, on August 13, 2024, the Commission published an NPR in the **Federal Register** proposing to establish a safety standard for toys containing button cell or coin cell batteries by amending the requirements in part 1250 specific to battery compartments for

toys containing button cell or coin cell batteries. The amendments would align the requirements more closely with the Commission's new rule for consumer products containing button cell or coin batteries, codified at part 1263, and provide the highest level of safety that is feasible (89 FR 65791). In the August 13 notice, the Commission provided a 60-day comment period closing on October 15, 2024.

B. Comment Period Extension

Section III.D of the NPR states that CPSC would make available for review and comment, to the extent allowed by applicable law, the underlying incident data associated with the proposed rule. This data was to be made available upon publication of the NPR in the **Federal Register** on August 13, 2024. However, release of the underlying data was delayed until September 10, 2024. The Commission therefore is extending the comment period by 30 days, until November 14, 2024, so that the public has ample time to review and comment on the data.

Alberta E. Mills,
Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–22063 Filed 9–27–24; 8:45 am]

BILLING CODE 6355–01–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3030

[Docket No. RM2020–5; Order No. 7559]

RIN 3211–AA27

Market Dominant Postal Products

AGENCY: Postal Regulatory Commission.
ACTION: Proposed rule.

SUMMARY: The Commission seeks comment on amendments to its rules concerning rate incentives for Market Dominant products. The Commission proposes to revise the criteria that a rate incentive must satisfy to be included in the percentage change in rates calculation. The Commission also proposes to revise the definition of “rate of general applicability” for Market Dominant rate adjustment proceedings. Further, the Commission proposes to modify associated filing and reporting requirements.

DATES: *Comments are due:* October 30, 2024. *Reply comments are due:* November 14, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit

comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives. The Rule Summary can be found on the Commission's Rule Summary Page at <https://www.prc.gov/rule-summary-page>.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Basis for Proposed Rule Change
- III. Proposed Rule

I. Background

In its general Market Dominant rate adjustment filings, the Postal Service routinely proposes to offer rate incentives in the form of promotions that reduce rates by providing discounts, rebates, or credits to participating mailers of certain types of mailpieces. Typically, such promotions are offered for several months during a particular calendar year for certain mailpieces in the First-Class Mail and USPS Marketing Mail classes. If the Commission approves, then the promotion may be offered again, with or without modifications, in the next calendar year.

Each rate incentive offered by the Postal Service is either a rate of general applicability or a rate not of general applicability. A rate incentive of general applicability may be eligible for inclusion in the percentage change in rates calculation (provided that it satisfies all the applicable criteria under the Commission's rules), which will allow for the Postal Service to generate price cap authority for the applicable class of mail. By contrast, a rate incentive not of general applicability has been ineligible for inclusion in the percentage change in rates calculation.

The Commission previously adopted regulations concerning rate incentives for Market Dominant products.¹ However, in connection with an appeal, the Commission stated that it would reconsider Order No. 5510 and that it “does not intend to enforce Order No. 5510 during the reconsideration period.”² In Order No. 6325, the Commission proposed modifying its rules and sought comments on its

proposal.³ Subsequently, the Commission sought supplemental comments.⁴ Having considered the comments that it received, the Commission proposes further changes to its rules.

II. Basis for Proposed Rule Change

The Commission proposes to modify its rules by revising the criteria that a rate incentive must satisfy to be included in the percentage change in rates calculation; revising the definition of “rate of general applicability”; and revising filing and reporting requirements.

First, the Commission proposes to create a mechanism allowing certain rate incentives that are not rates of general applicability to be included in the percentage change in rates calculation. Second, the Commission proposes to remove the currently-not-enforced requirement that a rate incentive must be made available to all mailers equally on the same terms and conditions to be included in the percentage change in rates calculation. Third, the Commission proposes to revise the definition of “rate of general applicability” at § 3030.101(j). This revision would clarify a potential ambiguity. The Commission also continues to propose to revise § 3030.101(j) as initially proposed in Order No. 6325 to clarify that to qualify as a rate of general applicability, a rate incentive cannot have eligibility criteria based on historical mail volumes or prior participation in a rate incentive or promotion. Fourth, the Commission proposes to revise filing requirements to ensure that the Postal Service provides sufficient information at the outset of a Market Dominant rate adjustment proceeding. Fifth, the Commission proposes to add a provision authorizing it to require the submission of information to ensure that rate incentives included in the percentage change in rates calculation comply with applicable requirements.

The proposed mechanism allowing certain rate incentives that are not rates of general applicability to be included in the percentage change in rates calculation would allow a rate incentive for which a mailer's eligibility depends on the mailer increasing its volumes of a product (or multiple products) to be included in the percentage change in

¹ Docket No. RM2020–5, Order Adopting Final Rules Regarding Rate Incentives for Market Dominant Products, May 15, 2020 (Order No. 5510).

² Docket No. RM2020–5, Notice of Intent to Reconsider, August 26, 2020, at 2 (Order No. 5655); see *U.S. Postal Serv. v. Postal Reg. Comm'n*, Joint Motion for Voluntary Dismissal and Vacatur, No. 20–1208 (DC Cir. Sept. 11, 2020).

³ Docket No. RM2020–5, Notice of Proposed Rulemaking to Amend Rules Regarding Rate Incentives for Market Dominant Products, November 14, 2022 (Order No. 6325).

⁴ Docket No. RM2020–5, Supplemental Notice of Proposed Rulemaking to Amend Rules Regarding Rate Incentives for Market Dominant Products, November 17, 2023 (Order No. 6801).

rates calculation. The Commission proposes this mechanism to encourage the Postal Service to develop and offer such rate incentives, with the goal of combatting volume decline.

The Commission also proposes to remove the currently-not-enforced requirement that a rate incentive must be made available to all mailers equally on the same terms and conditions to be included in the percentage change in rates calculation. The Commission proposes to remove this requirement because fairness concerns can be addressed through other means and because this requirement has the potential to cause confusion.

The Commission proposes revising the definition of “rate of general applicability” in § 3030.101(j) by adding the word “only” to the sentence addressing rates benefiting a single mailer so that the sentence reads as follows: “A rate is not a rate of general applicability if it benefits only a single mailer.” This change removes a potential ambiguity in the sentence and ensures that the sentence reflects the Commission’s intent in adding the sentence to the definition.

The Commission also continues to propose the changes to § 3030.101(j) that it proposed in Order No. 6325. *See* Order No. 6325 at 26–34. These proposed changes to the definition of “rate of general applicability” in § 3030.101(j) are designed to clarify what rate incentives may qualify for inclusion in the percentage change in rates calculation as rates of general applicability. Under the Commission’s existing rules “[a] rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies[.]” 39 CFR 3030.101(j). As initially proposed in Order No. 6325, the proposed changes add an additional sentence to clarify that a rate incentive is not a rate of general applicability if eligibility for the rate is dependent in whole or in part on the volume of mail sent by a mailer in a past year or years or on the participation by a mailer in a rate incentive or promotion in a past year or years.

The Commission proposes to modify its rules for the technical documentation required to support proposed rate incentives. These proposed changes would implement changes conforming to the Commission’s proposed changes to its rules for including rate incentives in the percentage change in rates calculation. Thus, under the proposed revision, the Commission’s rules would require a statement describing the purpose of the rate incentive. Similarly, and to conform with the proposed

change to the definition of “rate of general applicability,” under the proposed revision, the rule would require a statement affirming that a rate incentive proposed to be included in the percentage change in rate calculation will not benefit only a single mailer.

In addition, the Commission proposes requiring each request to include a rate incentive in the percentage change in rates calculation to include an estimate of the effect of the rate incentive on mailers in the affected class that do not participate in the rate incentive, as well as all information and calculations relied upon to develop such estimate. The Commission proposes this change for transparency. This proposed change would ensure that the public is provided notice of the estimated effect of the proposed rate incentive on non-participating mailers in the affected class. The Commission requires the information and calculations relied upon to develop the estimate to ensure that it understands the basis for the estimate and to provide transparency to the public and affected stakeholders.

The Commission also proposes adding a provision authorizing it to require the submission of information to ensure that rate incentives included in the percentage change in rates calculation comply with applicable requirements. In the Commission’s experience, reporting requirements are important to ensure that the Commission understands how rate incentives operate in practice. The Commission’s revised proposal codifies the Commission’s authority to impose such reporting requirements.

III. Proposed Rule

List of Subjects

39 CFR Part 3030

Administrative practice and procedure, Fees, Postal Service.

For the reasons stated in the preamble, the Commission proposes to amend 39 CFR part 3030 as follows:

PART 3030—REGULATION OF RATES FOR MARKET DOMINANT PRODUCTS

- 1. The authority citation for part 3030 continues to read as follows:

Authority: 39 U.S.C. 503; 3622.

- 2. Amend § 3030.101 by revising paragraph (j) to read as follows:

§ 3030.101 Definitions.

* * * * *

(j) Rate of general applicability means a rate applicable to all mail meeting standards established by the Mail Classification Schedule, the Domestic

Mail Manual, and the International Mail Manual. A rate is not a rate of general applicability if eligibility for the rate is dependent on factors other than the characteristics of the mail to which the rate applies. A rate incentive is not a rate of general applicability if eligibility for the rate is wholly or partially dependent on the volume of mail sent by a mailer in a past year or years or on the participation by a mailer in a rate incentive or promotion in a past year or years. A rate is not a rate of general applicability if it benefits only a single mailer. A rate that is only available upon the written agreement of both the Postal Service and a mailer, a group of mailers, or a foreign postal operator is not a rate of general applicability.

* * * * *

- 3. Amend § 3030.123 by revising paragraph (j) to read as follows:

§ 3030.123 Supporting technical documentation.

* * * * *

(j) Whenever the Postal Service includes a rate incentive with its planned rate adjustment, it must include with its filing:

(1) Whether the rate incentive is being treated under § 3030.128(f)(2) or under § 3030.128(f)(1) and (g);

(2) If the Postal Service seeks to include the rate incentive in the calculation of the percentage change in rates under § 3030.128(f)(2):

(i) The terms and conditions of the rate incentive;

(ii) The factors that determine eligibility for the rate incentive;

(iii) A statement that affirms that the rate incentive will not benefit only a single mailer;

(iv) A statement that affirms that the rate incentive is not only available upon the written agreement of both the Postal Service and a mailer, or group of mailers, or a foreign postal operator;

(v) A statement describing the purpose of the rate incentive; and

(vi) An estimate of the effect of the rate incentive on mailers in the affected class that do not participate in the rate incentive and all information and calculations relied upon to develop such estimate.

* * * * *

- 4. Amend § 3030.128 by:

■ a. Revising paragraph (f)(2);

■ b. Adding paragraph (f)(3); and

■ c. Revising paragraph (g)(1).

The addition and revisions read as follows:

§ 3030.128 Calculation of percentage change in rates.

* * * * *

(f) * * *

(2) A rate incentive may be included in a percentage change in rates calculation if it meets the following criteria:

(i) The rate incentive is in the form of a discount or can be easily translated into a discount;

(ii) Sufficient billing determinants are available for the rate incentive to be included in the percentage change in rate calculation for the class, which may be adjusted based on known mail characteristics or historical volume data (as opposed to forecasts of mailer behavior); and

(iii) The rate incentive is either:

(A) A rate of general applicability; or

(B) A rate not of general applicability that satisfies the following requirements:

(1) The rate incentive is not only available upon the written agreement of both the Postal Service and a mailer, or group of mailers, or a foreign postal operator;

(2) The rate incentive is applicable to all mail meeting standards established by the Mail Classification Schedule, the Domestic Mail Manual, and the International Mail Manual;

(3) The rate incentive does not benefit only a single mailer;

(4) The rate incentive is designed to increase volume; and

(5) A mailer's eligibility for the rate incentive depends on the mailer's sending, in a specified period of time (which must not be less than three months) a volume of mail of specified products that exceeds a specified threshold volume of mail, provided that such threshold volume of mail is not less than the volume of the specified products that the mailer sent in the specified period of time in the immediately preceding fiscal year or calendar year.

(3) The Commission may require submission of such information as it deems necessary to ensure that rate incentives included in the percentage change in rates calculation comply with the requirements of this section.

(g)(1) Mail volumes sent at rates under a negotiated service agreement or a rate incentive that is not a rate of general applicability are to be included in the calculation of the percentage change in rates under this section as though they paid the appropriate rates of general applicability, except as provided in paragraph (f)(2) of this section. Where it is impractical to identify the rates of general applicability (e.g., because unique rate categories are created for a mailer), the volumes associated with the mail sent under the terms of the negotiated service agreement or the rate incentive that is not a rate of general

applicability shall be excluded from the calculation of the percentage change in rates.

* * * * *

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2024–22125 Filed 9–27–24; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R03–RCRA–2024–0046; FRL–11702–01–R3]

West Virginia: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The state of West Virginia has applied to the United States Environmental Protection Agency (EPA) for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these revisions satisfy all requirements needed to qualify for final authorization, subject to public comment. Therefore, in the “Rules and Regulations” section of this **Federal Register**, we are authorizing West Virginia for these changes as a final action without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Send written comments by October 30, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–RCRA–2024–0046, at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web,

cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/submitting-comments>.

The EPA encourages electronic submittals, but if you are unable to submit electronically or need other assistance, please contact Priscilla Ortiz Carrero, the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below. Please also contact Priscilla Ortiz Carrero if you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you.

FOR FURTHER INFORMATION CONTACT:

Priscilla Ortiz Carrero, RCRA Programs Branch; Land, Chemicals, and Redevelopment Division, U.S. Environmental Protection Agency Region 3, Four Penn Center, 1600 John F. Kennedy Blvd. (Mail code 3LD31), Philadelphia, PA 19103–2852; phone: (215) 814–3428, email: ortizcarrero.priscilla@epa.gov.

SUPPLEMENTARY INFORMATION: This document proposes to take action on West Virginia's revisions to its hazardous waste management program under the Resource Conservation and Recovery Act (RCRA), as amended. We have published a direct final rule authorizing these revisions in the “Rules and Regulations” section of this issue of the **Federal Register** because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment pertaining to the State revisions, we will withdraw the final action and it will not take effect. We would then address all public comments in a subsequent final action and base any further decision on the authorization of the State program revisions after considering all comments received during the comment period.

We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information, please see the information provided in the **ADDRESSES** section of this document.

Authority: This action is issued under the authority of sections 2002(a), 3006 and

7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Adam Ortiz,

Regional Administrator, EPA Region 3.

[FR Doc. 2024–21664 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket No. 21–31; Report No. 3219; FR ID 247697]

Petitions for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for Reconsideration.

SUMMARY: Petitions for Reconsideration (Petitions) have been filed in the Commission's proceeding by Sasha Horwitz, on behalf of Los Angeles Unified School District, and Kristen Corra, on behalf of Schools, Health & Libraries Broadband (SHLB) Coalition, the Open Technology Institute at New America, the Benton Institute for Broadband & Society, the Consortium for School Networking, and Common Sense Media.

DATES: Oppositions to the Petitions must be filed on or before October 15, 2024. Replies to oppositions to the Petitions must be filed on or before October 25, 2024.

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

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Molly O'Connor of the Telecommunications Access Policy Division, Wireline Telecommunications Bureau, at *Molly.OConor@fcc.gov* or (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3219, released September 24, 2024. The full text of the Petitions can be accessed online via the Commission's Electronic Comment Filing System at: *http://fcc.gov/ecfs/*. The Commission will not send a Congressional Review Act (CRA) submission to Congress or the Government Accountability Office pursuant to the CRA, 5 U.S.C. 801(a)(1)(A), because no rules are being adopted by the Commission.

Subject: Addressing the Homework Gap through the E-Rate Program (WC Docket No. 21–31).

Number of Petitions Filed: 2.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–22399 Filed 9–27–24; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 622

[Docket No. 240920–0248]

RIN 0648–BM94

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Fishery Management Plans of Puerto Rico, St. Croix, and St. Thomas and St. John; Amendment 2

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Amendment 2 to the Puerto Rico Fishery Management Plan (FMP), Amendment 2 to the St. Croix FMP, and Amendment 2 to the St. Thomas and St. John FMP (jointly Amendment 2), as prepared by the Caribbean Fishery Management Council (Council). If implemented, this proposed rule and Amendment 2 would prohibit and restrict the use of certain net gear in U.S. Caribbean Federal waters and would require a descending device to be available and ready for use on vessels when fishing for federally managed reef fish species in U.S. Caribbean Federal waters. The purpose of this proposed rule and Amendment 2 is to protect habitats and species from the potential negative impacts associated with the use of certain net gear and to enhance the survival of released reef fish in U.S. Caribbean Federal waters.

DATES: Written comments must be received no later than October 30, 2024.

ADDRESSES: A plain language summary of this proposed rule is available at *https://www.regulations.gov/docket/NOAA-NMFS-2024-0084*. You may submit comments on this document, identified by “NOAA–NMFS–2024–0084” by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Visit *https://www.regulations.gov* and type

“NOAA–NMFS–2024–0084” in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Maria Lopez-Mercer, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

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

An electronic copy of Amendment 2, which includes a fishery impact statement, an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis, may be obtained from the Southeast Regional Office website at *https://www.fisheries.noaa.gov/action/amendment-2-puerto-rico-st-croix-and-st-thomas-and-st-john-fishery-management-plans-trawl*.

FOR FURTHER INFORMATION CONTACT:

Maria Lopez-Mercer, NMFS Southeast Regional Office, 727–824–5305, *maria.lopez@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS, with the advice of the Council, manages the Puerto Rico, St. Croix, and St. Thomas and St. John fisheries in U.S. Caribbean Federal waters under the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs. The Council prepared the FMPs, which the Secretary of Commerce approved, and NMFS implements the FMPs through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and the regional fishery management councils to prevent overfishing and achieve, on a continuing basis, the optimum yield from federally managed fish stocks to ensure that fishery resources are managed for the greatest overall benefit to the nation, particularly with respect to providing food production and recreational opportunities, and protecting marine ecosystems. The

Magnuson-Stevens Act authorizes the Council and NMFS to regulate fishing activity to support the conservation and management of federally managed fish fisheries, which may include regulations that pertain to fishing for non-managed species (*i.e.*, species that are not managed under an FMP).

On September 22, 2020, the Secretary of Commerce approved the Puerto Rico, St. Croix, and St. Thomas and St. John FMPs under section 304(a)(3) of the Magnuson-Stevens Act. The FMPs took effect on October 13, 2022, after NMFS published the final rule to implement the FMPs (87 FR 56204, September 13, 2022). Each FMP contains management measures applicable for Federal waters in the respective island management area, including allowable fishing gear and harvest methods for species managed under each FMP. Federal regulations at 50 CFR part 622, subparts S, T, and U describe management measures for Puerto Rico, St. Croix, and St. Thomas and St. John, respectively. Federal waters around Puerto Rico extend seaward from 9 nautical miles (nmi) or 16.7 kilometers (km) from shore to the offshore boundary of the U.S. Caribbean exclusive economic zone (EEZ). Federal waters around St. Croix and St. Thomas and St. John extend seaward from 3 nmi (5.6 km) from shore to the offshore boundary of the U.S. Caribbean EEZ.

In addition to regulations specific to each FMP, Federal regulations at 50 CFR 600.725(v) identify the fishing gear authorized for federally-managed fisheries and non-managed fisheries of each fishery management council (see part V for the Caribbean Fishery Management Council). Employing fishing gear or engaging in fishing in a fishery that is not included on the list of authorized fisheries and authorized gear types is prohibited. However, an individual fisherman may notify the Council of the intent to use a fishing gear or participate in a fishery that is not on the authorized list (50 CFR 600.725(v)). Ninety days after such notification to the Council, the individual may use such fishing gear or participate in the fishery unless regulatory action is taken to prohibit the use of the gear or participation in the fishery.

In Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, gillnets are listed as an authorized gear type for the commercial federally-managed and non-federally managed pelagic fisheries, as well as all other commercial non-federally managed fisheries located in U.S. Caribbean Federal waters. Trawl nets are listed as an authorized gear type for the

commercial non-federally managed fisheries, other than the non-managed pelagic fisheries. Purse seines and trammel nets are not listed as authorized fishing gear for any fishery (managed or non-managed) in U.S. Caribbean Federal waters.

At its December 2021 meeting, the Council discussed prohibiting the use of trawl gear, trammel nets, purse seines, and gillnets for all fishing in U.S. Caribbean Federal waters as a precautionary approach to prevent potential negative impacts from the use of these fishing gear types on sensitive habitats present in U.S. Caribbean Federal waters and to eliminate the potential for bycatch associated with each of these types of fishing gear. During the development of Amendment 2, when considering the use of gillnet gear, the Council recommended restricting the use of gillnets such that it would only be allowed for fishing in non-managed fisheries to accommodate fishermen who use gillnet gear at the surface of the water to catch baitfish.

Currently, gear-specific regulations in U.S. Caribbean Federal waters prohibit the use of gillnets and trammel nets in the federally-managed reef fish and spiny lobster fisheries. These regulations require that any gillnet or trammel net used to fish for any other species must be tended at all times (50 CFR 622.437(a)(3) and (c)(2); 50 CFR 622.477(a)(3) and (c)(2); 50 CFR 622.512(a)(3) and (c)(2)). Gillnets and trammel nets are also prohibited for use year-round in the seven federally-managed seasonally closed areas: Puerto Rico—(1) Abrir La Sierra Bank (50 CFR 622.439(a)(1)(ii)), (2) Tourmaline Bank (50 CFR 622.439(a)(2)(ii)), (3) Bajo de Sico (50 CFR 622.439(a)(3)(ii)); U.S. Virgin Islands (USVI)—(4) Mutton Snapper Spawning Aggregation Area (50 CFR 622.479(a)(1)(ii)), (5) Red Hind Spawning Aggregation Area east of St. Croix (50 CFR 622.479(a)(2)(ii)), (6) Grammanik Bank (50 CFR 622.514(a)(1)(ii)), and (7) Hind Bank Marine Conservation District (50 CFR 622.514(a)(2)). Though trawl gear, trammel nets, purse seines, and gillnets are used infrequently, if at all, by commercial or recreational fishermen in Federal waters around Puerto Rico, St. Croix, or St. Thomas and St. John, the Council recommended being proactive in protecting marine resources and recommended regulatory action to prohibit or restrict the use of these fishing gear types in U.S. Caribbean Federal waters.

Currently, trawl gear, which includes bottom and mid-water trawls, is listed as an authorized fishing gear type for commercial non-federally-managed

fisheries, other than the non-managed pelagic fisheries under each FMP (part V of the table to 50 CFR 600.725(v)). As described in Amendment 2, there is no evidence that commercial fishermen use or have ever used trawl gear in Federal waters around any of the island management areas, except for limited exploratory research (*e.g.*, for commercial fishing purposes) conducted in the early 1900s.

As discussed, the use of trammel net gear is currently prohibited in the federally-managed reef fish and spiny lobster fisheries in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. Trammel nets are not listed in part V of the table to 50 CFR 600.725(v) as an authorized fishing gear type in any managed or non-managed fisheries in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. As described in Amendment 2, some trammel net landings of non-managed species such as baitfish, have been reported from fisheries located in Federal waters around Puerto Rico. There is no evidence of the use of trammel nets in fisheries located in Federal waters around the USVI.

Similar to trammel net gear, purse seine is not identified in part V of the table to 50 CFR 600.725(v) as an authorized fishing gear type for any fishery in any of the island management areas. As discussed in Amendment 2, purse seines are not used in any fishery located in Federal waters around Puerto Rico or the USVI.

As discussed in Amendment 2, the use of gillnets is prohibited in the federally-managed reef fish and spiny lobster fisheries, and they are rarely used by commercial fishermen in non-managed fisheries in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John due to depth and distance from the coast. However, gillnets are allowed and used in Puerto Rico territorial waters to fish for certain non-managed species, including baitfish. Gillnets are prohibited in USVI territorial waters, except for gillnets used at the surface for the harvest of certain species of baitfish.

In addition to impacts associated with the use of certain types of fishing gear discussed above, there is a concern about the mortality of reef fish that are released after capture by commercial and recreational fishermen, particularly reef fish caught in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John that experience injuries related to barotrauma. Barotrauma in fish is the rapid expansion of gases inside a fish as it is rapidly retrieved from depth.

Barotrauma generally occurs when retrieving fish from depths of 90 feet (27.4 meters) or greater, though it can occur in waters as shallow as approximately 33 feet (10 meters) deep. Fishermen can help increase the survivability of fish showing signs of barotrauma that are released by using a descending device. A descending device lowers a fish back to a depth where internal gases recompress and the fish can be released unharmed. Descending devices are not currently required to be on any fishing vessels in U.S. Caribbean Federal waters.

Management Measures Contained in This Proposed Rule

This proposed rule would (1) prohibit the use of trawls, trammel nets, and purse seines in all fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, (2) prohibit the use of gillnets in federally-managed fisheries in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, and restrict the use of gillnets in non-managed fisheries to a gillnet that meets specified requirements, and (3) require a descending device to be available and ready for use on each fishing vessel when fishing in federally-managed reef fish fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John.

Trawl, Trammel Net, and Purse Seine Gear Prohibition

In Amendment 2, the Council recommended a precautionary approach to management that would prevent the future use of trawl, trammel net, and purse seine gear by any sector (*i.e.*, commercial and recreational) in any fishery (*i.e.*, managed and non-managed) located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. With respect to non-managed fisheries, the Magnuson-Stevens Act gives the fishery management councils and NMFS authority to regulate fishing activity to support the conservation and management of fisheries, which can include regulations that pertain to non-managed fisheries. Through this precautionary action, the Council seeks to prevent potentially negative effects on habitats and species associated with the use of certain types of fishing gear.

This proposed rule would prohibit the use of trawl, trammel net, and purse seine gear for all fishing in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. If this proposed rule is implemented, and the gear types are specifically prohibited, fishermen would not be able to petition

the Council to use trawl, trammel net, and purse seine gear in Federal waters.

Gillnet Gear Prohibition and Restriction

This proposed rule would implement a precautionary approach to prohibit the use of gillnets in all federally-managed fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. The proposed rule would also restrict the use of gillnets in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John to commercial non-managed fisheries only. In those commercial non-managed fisheries, gillnets may be used only so long as they meet the following specifications and requirements: (1) the gillnet mesh size must be exactly 0.75 inches (1.9 centimeters) square or 1.5 inches (3.8 centimeters) stretched; (2) one gillnet up to 600 feet (182.9 meters) in length is allowed on board a vessel; (3) the gillnet must be used 20 feet (6.1 meters) or more above the bottom; and (4) the gillnet must be tended at all times.

The current use of gillnets in the commercial non-managed fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John is minimal, due to the water depth and distance from the coast. This proposed rule and Amendment 2 would establish specific requirements for gillnets used in these fisheries to prevent or minimize potential negative ecological and biological effects (*e.g.*, bycatch of undersized individuals or protected species), and to prevent physical effects on habitats in the U.S. Caribbean Federal waters, which may occur if a gillnet is attached to or makes contact with the bottom. These specific gillnet requirements were developed to reflect how the gear is currently used by commercial fishermen in territorial waters around Puerto Rico and the USVI to harvest baitfish.

Descending Devices

This proposed rule would require that a descending device be on board a commercial or recreational vessel and be readily available for use while fishing for or possessing species of reef fish managed under the FMPs. The list of reef fish managed by the Council that would be affected by this proposed rule is included in each FMP and can be found in table 3 to 50 CFR 622.431 (Puerto Rico), table 2 to 50 CFR 622.471 (St. Croix), and table 2 to 50 CFR 622.506 (St. Thomas and St. John).

For this proposed requirement, a descending device means an instrument that is attached to a minimum of 16-ounces (454-grams) of weight and length of line that will release the fish at the

depth from which it was caught, or a minimum of 60 feet (18.3 meters). The descending device attaches to the fish's mouth or is a container that will hold the fish. The device must be capable of releasing the fish automatically, by the actions of the operator of the device, or by allowing the fish to escape on its own. Since minimizing surface time is critical to increasing survival, a descending device must be readily available for use while engaged in fishing for federally-managed reef fish.

Request for Comments

NMFS is requesting comments on Amendment 2 and the measures in this proposed rule. In addition, NMFS is requesting comments on whether a 30-day delay in the date of effectiveness for the final rule would be sufficient for implementation of the descending device requirement. To comply with the Administrative Procedures Act, the effective date of measures implemented in a final rule would be not less than 30 days after publication of the final rule in the **Federal Register** (5 U.S.C. 553(d))(unless one of three exceptions applied). NMFS is considering whether a delay in implementation for a time period greater than 30 days is warranted for the proposed descending device requirement. Therefore, NMFS is also seeking comments on whether 30 days is sufficient to allow the Council the opportunity to conduct outreach and education activities and for fishermen to obtain the required descending device.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendment 2, the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Pursuant to section 605(b) of the RFA, the Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination follows.

A description of this proposed rule, why it is being considered, and the objectives of this proposed rule are contained in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this proposed rule. The Magnuson-

Stevens Act provides the statutory basis for this proposed rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting or record-keeping requirements are introduced by this proposed rule.

This proposed rule, if implemented, would change the requirements associated with five types of gear. First, the proposed rule would prohibit the use of trawl gear for all fisheries in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John. Next, the proposed rule would prohibit the use of gillnets for all federally managed fisheries in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John. It would also limit the use of gillnets for non-federally managed fisheries in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John to gillnets that meet the following requirements: (a) the mesh size of the gillnet must be exactly 0.75 inches (1.9 centimeters) square or 1.5 inches (3.8 centimeters) stretched, (b) one gillnet up to 600 feet (182.9 meters) in length is allowed on board a vessel, (c) the gillnet must be used 20 feet (6.1 meters) or more above the bottom, and (d) the gillnet must be tended at all times. Additionally, the proposed rule would prohibit the use of trammel nets for all fisheries in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John. Furthermore, it would prohibit the use of purse seines for all fisheries in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John. Finally, the proposed rule would require that a descending device be on board a commercial or recreational vessel and be readily available for use while fishing for or possessing federally managed reef fish in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John.

These proposed actions would apply to all commercial fishing businesses, for-hire fishing businesses (charter boat operators who take customers out to fish), and recreational fishers (anglers) who fish in U.S. Caribbean Federal waters. None of the proposed changes would directly apply to fish dealers. Any change in the supply of fish available for purchase by dealers as a result of the proposed action, and associated economic effects, would be an indirect effect of the proposed regulatory action and would therefore fall outside the scope of the RFA. Additionally, the RFA does not consider recreational anglers to be entities, so they are also outside the scope of this analysis (5 U.S.C. 603). Small entities include small businesses, small organizations, and small governmental

jurisdictions (5 U.S.C. 601(6) and 601(3)–(5)). Recreational anglers are not businesses, organizations, or governmental jurisdictions. Thus, only the impacts on commercial and charter (for-hire) fishing businesses will be discussed. All monetary values presented in this analysis are expressed in 2021 dollars.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (North American Industry Classification System [NAICS] code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide.

From 2014 through 2019, the Puerto Rico commercial fishery as a whole generated average annual revenues of approximately \$11.26 million. During the 6 years from 2014 through 2019, there were an average of 796 commercial fishermen who reported landings. The remainder of this analysis uses the 2014 through 2019 figures to estimate the impacts of the proposed regulatory action on Puerto Rico's commercial fishermen.

NMFS estimates that from 2014 through 2019, the average commercial fisherman in Puerto Rico had annual revenue of \$9,100. Maximum annual revenue from reported landings for any of them was less than \$60,000 and minimum annual revenue was about \$200. That range in individual annual revenues illustrates the difference between part-time fishermen and those that are full-time. Nonetheless, whether full-time or part-time, each active Puerto Rico Department of Natural and Environmental Resources (DNER)-licensed commercial fisherman is assumed for the purposes of this RFA analysis to represent a unique commercial fishing business, and all active commercial fishing businesses in Puerto Rico are small, based on the NMFS size standard.

Not all of Puerto Rico's active commercial fishing businesses operate in Federal waters. From 2014 through 2019, an average of 309 (38.8 percent) of the 796 annually active commercial fishermen reported that they operated in Federal waters. Consequently, the proposed regulatory action would apply to 309 small commercial fishing businesses in Puerto Rico.

From 2014 through 2019, the USVI commercial fishery as a whole generated

average annual revenues of \$4.71 million. Therefore, all commercial fishing businesses in the USVI (St. Croix, St. Thomas, and St. John) are small, based on the NMFS size standard.

From 2014 through 2019, there was an annual average of 59 active commercial fishermen in St. Croix and 67 in St. Thomas and St. John, for a total of 126 active commercial fishermen in the USVI. Each of the 126 active commercial fishermen represents a unique small commercial fishing business. The average active small St. Croix commercial fisherman had annual revenue from all landings of approximately \$33,800, while the average active small St. Thomas and St. John commercial fisherman had annual revenue from all landings of approximately \$39,000. Annual revenue, however, varies considerably by active fisherman. The maximum average annual revenue among the active St. Croix commercial fishermen was about \$376,000, while the minimum average annual revenue was \$315. The maximum average annual revenue for any of the St. Thomas and St. John commercial fishermen was about \$239,000, while the minimum average annual revenue was \$22.

Thirty-seven (62.3 percent) of St. Croix's average annual 59 active commercial fishermen and 48 (67.0 percent) of St. Thomas and St. John's average annual 67 active commercial fishermen operated in Federal waters from 2014 through 2019. Because this proposed rule directly affects commercial fishermen who operate in U.S. Caribbean Federal waters, it would apply to 85 USVI commercial fishing businesses: 37 active small commercial fishing businesses in St. Croix and 48 active small commercial fishing businesses in St. Thomas and St. John. However, from 2001 to September 2021, there was a moratorium on new commercial fishing licenses issued by the USVI's Department of Planning and Natural Resources (DPNR). In September 2021, the DPNR ended the 20-year old commercial fishing license moratorium. The decision to remove the moratorium was made, in part, after examining the 40 percent decrease in participation in the commercial fishery since 2001. The lifting of the moratorium does not mean there is no limit on the number of new licenses; the cap is 200 for St. Croix and 200 for St. Thomas and St. John. In October 2021, a limited entry license program for hook-and-line fishing was created by the DPNR to allow entry for fishers who were not able to commercially fish during the 20-year moratorium. Sixty-six new commercial fishing licenses

were granted for the 2022–2023 fishing year. Every newly licensed fisherman is expected to represent a small business. If all of the 66 newly licensed commercial fishermen are active, all operate in Federal waters, and all are small businesses, a total of 151 small commercial fishing businesses in the USVI would be directly affected by the proposed rule.

In summary, estimated averages of 309 small commercial fishing businesses in Puerto Rico and from 85 to 151 small commercial fishing businesses in the USVI would be directly affected by this proposed rule annually.

The proposed prohibitions and restrictions on the use of net gear (trawl, gillnet, trammel, and purse seine) in Federal waters would apply to charter (for-hire) fishing businesses that take anglers into U.S. Caribbean Federal waters. However, charter (for-hire) fishing businesses do not harvest fish with any of the types of net gear that would be affected by this proposed rule. Most, if not all, charter (for-hire) fishing businesses that operate in U.S. Caribbean Federal waters sell billfish, coastal pelagics, reef fish, or deep-water species angler trips, and all anglers are provided rod-and-reel gear. Therefore, no charter (for-hire) fishing businesses would be directly affected by the proposed changes to allowable gear types in Federal waters. The proposed requirement that a descending device be on board a commercial or recreational vessel and be readily available for use while fishing for or possessing federally managed reef fish in Federal waters would directly affect charter (for-hire) fishing businesses that take anglers into U.S. Caribbean Federal waters where they may catch reef fish.

A business involved in the operation of a charter (for-hire) fishing boat is included within the broader scenic and sightseeing transportation, water industry (NAICS code 487210). Charter (for-hire) fishing operations make up just part of the broader industry, which includes dinner cruises, whale watching excursions, and harbor and other sightseeing boat tours, among other businesses. A business primarily involved in scenic and sightseeing transportation, water industry is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates) and its combined annual receipts are no more than \$14 million for all of its affiliated operations worldwide. In 2021, there were 16 establishments in Puerto Rico classified under NAICS 487210, and 18 such establishments in the USVI (U.S.

Census Bureau, County Business Patterns 2021). All but one in the USVI were located in St. Thomas and St. John. This analysis assumes all 16 establishments in Puerto Rico and all 18 in the USVI are unique charter (for-hire) fishing business and all are small. Information that is more recent shows there were 58 valid charter (for-hire) vessel permits issued by the Puerto Rico DNER in 2023. Therefore, NMFS assumes 16 to 58 small charter (for-hire) fishing businesses in Puerto Rico, one small charter (for-hire) fishing business in St. Croix, and 17 small charter (for-hire) fishing businesses in St. Thomas and St. John would be directly affected by the descending device requirement of the proposed rule. No other small entities that would be directly affected by this proposed rule have been identified.

This proposed rule would prohibit the use of trawl gear in all fisheries in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John. Under current regulations, trawls are not an authorized gear type for federally-managed reef fish fisheries, pelagic species fisheries, or spiny lobster fisheries (50 CFR 600.725 (v)). Trawl gear is also not an authorized gear type for pelagic fisheries that are not managed by the Council; however, it is an authorized gear for other fisheries that are not managed by the Council. An unauthorized gear is not a prohibited gear. Although trawl gear is not authorized for use in federally-managed fisheries, a commercial fisherman could petition the Council to use it when harvesting federally-managed species in the future. This proposed rule would eliminate any such future petitions to use trawl gear in any fishery located in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John. It would also eliminate trawl gear as an authorized gear for use in other commercial fisheries that are not managed by the Council.

Puerto Rico territorial fishing regulations prohibit the use of trawl nets and there is no evidence that the commercial sector in Puerto Rico uses (or has used) trawl gear, except for exploratory research in U.S. Caribbean Federal waters. Additionally, both bottom trawling and midwater trawling are likely cost prohibitive activities for the U.S. Caribbean's small-scale (artisanal) commercial fishing businesses. The USVI do not have specific regulations prohibiting the use of trawling gear in territorial waters off of St. Croix, St. Thomas, and St. John, and there is no evidence that trawling gear is or has been used by commercial fishermen in Federal waters around

these islands. For these reasons, there is expected to be no economic impact on any small business in the U.S. Caribbean from the proposed prohibition on the use of trawl gear in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John.

This proposed rule would also prohibit the use of gillnets in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John for all federally managed fisheries, and limit the use of gillnets in non-federally managed fisheries located in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John to gillnets that meet the following specifications and requirements: (a) mesh size of the gillnet must be exactly 0.75 inches (1.9 centimeters) square or 1.5 inches (3.8 centimeters) stretched; (b) one gillnet up to 600 feet (182.9 meters) in length is allowed on board a vessel; (c) the gillnet must be used 20 feet (6.1 meters) or more above the bottom; and (d) the gillnet must be tended at all times. Under current Federal regulation, gillnets are prohibited when fishing for federally-managed reef fish or spiny lobster around Puerto Rico (50 CFR 622.437 (a)(3) and (c)(2)), St. Croix (50 CFR 622.477(a)(3) and (c)(2)), and St. Thomas and St. John (50 CFR 622.512(a)(3) and (c)(2)). Gillnets are an authorized gear for federally-managed pelagic fisheries and other fisheries not managed by the Council (*e.g.*, other pelagics and baitfish, such as ballyhoo or flying fish).

Puerto Rico fishing regulations (Article 14, parts f and g) prohibit the use of gillnets with less than 2 inches (5.1 centimeters) from knot to knot or with a mesh size greater than 6 inches (15.2 centimeters). An annual average of 121 of Puerto Rico's commercial fishermen reported using gillnets in territorial waters from 2014 through 2019, and 16 (13.2 percent) of them used gillnets in Federal waters. Annual landings (2014 through 2019) from the use of gillnets in all waters averaged 122,100 pounds (lb; 55,338.6 kilograms [kg]). During this period, an annual average of 10 gillnet fishermen landed 1,900 lb (861.8 kg) of federally managed species from Federal waters that were not reef fish or spiny lobster. The 1,900 lb (861.8 kg) of landed fish represent approximately 0.1 percent of all reported marine resources landed by weight and by value, and the 10 fishermen represent 1.3 percent of the average 796 commercial fishermen with annual landings from all waters or 3.2 percent of the 309 commercial fishing businesses that reported fishing in Federal waters around Puerto Rico. The average fisherman who uses gillnet gear

generates annual revenue of approximately \$41,000, which is significantly higher than the average revenue for fishermen that use any gear. The proposed restrictions on the use of gillnets in Federal waters around Puerto Rico would be expected to affect 10 commercial fishing businesses and result in an average annual loss in landings per business of 190 lb (86.2 kg), worth \$670 (approximately 1.6 percent of the average gillnet fisherman's annual revenue). This individual annual loss would be expected to occur over three to four trips with a reduction in revenue of \$168 to \$223 per trip. NMFS expects that these fishermen would act to mitigate for the loss by shifting those trips into territorial waters where about 97 percent of gillnet harvests occur.

USVI regulations (V.I.R.R., title 12, chapter 9A, section 321) prohibit the use of all gillnets in territorial waters, with the exception of single-wall surface gillnets for the baitfish ballyhoo (Family *Hemiramphidae*), gar (Family *Belonidae*), and flying fish (Family *Exocoetidae*). These USVI-allowed surface gillnets must be tended at all times, and possession of an illegal gillnet on board a vessel is prohibited in USVI waters. Any commercial fishing vessel that operates in Federal waters must pass through USVI waters to make its landings in St. Croix, St. Thomas, or St. John. From this it follows that gillnets that may be currently used in Federal waters off St. Croix, St. Thomas, and St. John must comply with USVI regulations and be limited to catching baitfish. Therefore, the proposed restrictions on the use of gillnets in Federal waters around St. Croix, St. Thomas, and St. John would be expected to have no economic impact on any small businesses.

In addition to the changes mentioned above, this proposed rule would prohibit the use of trammel nets in all fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. Under current regulations, the use of trammel nets is prohibited in the reef fish and spiny lobster fisheries located in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, and they are not an authorized gear for any fishery in U.S. Caribbean Federal waters. Although not authorized, a commercial fisherman can petition the Council to use trammel nets in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John, when fishing in fisheries other than reef fish or spiny lobster. However, to date, there have been no petitions to use trammel nets in Federal waters around Puerto

Rico or the USVI. Trammel nets are used in Puerto Rico territorial waters to fish for managed species such as spiny lobsters and mackerels. In comparison, USVI regulations prohibit the use of trammel nets in territorial waters, and possession of trammel nets on board vessels in territorial waters is prohibited (V.I.R.R., title 12, chapter 9A, section 321). Any small business in St. Croix, St. Thomas, and St. John that operates a commercial fishing vessel in Federal waters must pass through territorial waters to make its landings in the USVI and would need to comply with USVI regulations. Therefore, there is no incentive for small commercial fishing businesses in the USVI to petition the Council for the use of trammel nets in Federal waters. In summary, the proposed action to prohibit the use of trammel nets in Federal waters around Puerto Rico and the USVI is expected to have no economic impact on any small businesses.

This proposed rule would also prohibit the use of purse seines for all fishing in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John. Purse seines are not an authorized gear under current Federal regulation, but a commercial fisherman can petition the Council to use a purse seine in U.S. Caribbean Federal waters. To date, there have been no such petitions. Therefore, the proposed prohibition on the use of purse seines in Federal waters around Puerto Rico, St. Croix, St. Thomas, and St. John is expected to have no economic impact on any small businesses.

Finally, this proposed rule would require a descending device to be on board a commercial or recreational vessel and be readily available for use while fishing for or possessing federally managed reef fish in Federal waters around Puerto Rico, St. Croix, and St. Thomas and St. John. A descending device means an instrument to which is attached a minimum of a 16-ounce (454-gram) weight and a length of line that will release the fish at the depth from which the fish was caught or a minimum of 60 feet (18.3 meters). The descending device attaches to the fish's mouth or is a container that will hold the fish. The device must be capable of releasing the fish automatically, by the actions of the operator of the device, or by allowing the fish to escape on its own. Since minimizing surface time is critical to increasing survivability, a descending device shall be readily available for use while engaged in fishing for managed reef fish in Federal waters. A descending device can be either purchased from a fishing supplies business or made at home. The price of

a commercially available descending device ranges from \$21 to \$60. The cost of a homemade device can be negligible, depending on the availability of materials at hand and the time spent building such a device. For example, one can make a descending device from a milk crate or heavy gauge aluminum wire with a weight. Therefore, the cost of a descending device is estimated to range from \$0 to \$60.

From 2014 through 2019, an annual average of 719 (90.2 percent of active) commercial fishermen in Puerto Rico reported landings of reef fish and 222 of them reported landings of reef fish harvested from Federal waters. Therefore, the proposed requirement that a descending device be on board a commercial or recreational vessel and readily available for use while fishing for or possessing federally managed reef fish in Federal waters would have an average annual direct impact on at least 222 small commercial fishing businesses in Puerto Rico. However, some commercial fishermen who have not historically reported landings of reef fish from Federal waters may choose to do so in the future, and thus, would be required to have a descending device. As discussed earlier, an annual average of 309 commercial fishermen reported landings from Federal waters. Therefore, a range of 222 to 309 small commercial fishing businesses in Puerto Rico would be directly affected by the proposed descending device requirement.

As stated previously, 37 of St. Croix's commercial fishermen and 48 of St. Thomas and St. John's commercial fishermen reported landings of marine resources harvested from Federal waters from 2014 through 2019, and NMFS assumes that all of these commercial fishermen may catch reef fish in Federal waters. Additionally, there were 66 new commercial hook-and-line fishing licenses issued by the USVI's DPNR for the 2022–2023 fishing year in the USVI. Therefore, 85 to 151 small commercial fishing businesses in the USVI would be directly affected by the proposed descending device requirement.

In addition, 16 to 58 small charter (for-hire) fishing businesses in Puerto Rico, one small charter (for-hire) fishing business in St. Croix, and 17 small charter (for-hire) fishing businesses in St. Thomas and St. John would be directly affected by the proposed descending device requirement.

The cost of a descending device represents from 0.0 to 0.87 percent of the average annual revenue of the average small commercial fishing business in Puerto Rico. Similarly, it represents from 0.0 to 0.2 percent of the average annual revenue generated by a

small commercial fishing business in the USVI (St. Croix or St. Thomas and St. John). Revenue information for individual charter (for-hire) fishing businesses is not available to make a similar comparison. NMFS assumes, however, that all small commercial fishing businesses and charter (for-hire) fishing businesses would choose the least costly device (retail or homemade) when factoring in explicit and implicit costs, and, therefore, the economic impact on each affected small entity from the proposed descending device requirement would be negligible.

In summary, the proposed prohibitions on the use of trawl gear, trammel nets, and purse seines in Federal waters off Puerto Rico, St. Croix, and St. Thomas and St. John would be expected to result in no or minimal economic impacts on affected small entities. The proposed restrictions on the use of gillnets in U.S. Caribbean Federal waters would be expected to negatively impact 10 commercial fishing businesses in Puerto Rico, by reducing annual ex-vessel revenue by \$670 per vessel (approximately 1.6 percent of the average gillnet fisherman's annual revenue). These 10 commercial fishing businesses comprise approximately 1.3 percent of all commercial fishing

businesses in Puerto Rico and 3.2 percent of the commercial fishing businesses that reported fishing in Federal waters around Puerto Rico. Furthermore, NMFS expects that these fishermen would act to mitigate for the loss by shifting forgone trips into territorial waters where about 97 percent of harvest with gillnets occur. No other impacts are expected from the proposed gillnet restrictions. Finally, the proposed descending device requirement is expected to result in negligible costs to affected small commercial fishing businesses and charter (for-hire) fishing businesses. In conclusion, the information provided above supports a determination that this proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects

50 CFR Part 600

Caribbean, Fish, Fisheries, Fishing.

50 CFR Part 622

Caribbean, Commercial, Fisheries, Fishing, Fishing gear, Recreational.

Dated: September 20, 2024.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR parts 600 and 622 as follows:

PART 600—MAGNUSON–STEVENS ACT PROVISIONS

■ 1. The authority citation for part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

■ 2. In § 600.725(v), in the table under heading V. Caribbean Fishery Management Council, revise the entries for 1.B.i, 1.G, 2.B.i, 2.G, 3.B.i, and 3.G to read as follows:

§ 600.725 General prohibitions.

* * * * *

(v) * * *

Fishery				Authorized gear types			
*	*	*	*	*	*	*	*
V. Caribbean Fishery Management Council							
1. Exclusive Economic Zone around Puerto Rico.							
*	*	*	*	*	*	*	*
B. Puerto Rico Pelagic Fishery (FMP):							
i. Commercial fishery				i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.			
*	*	*	*	*	*	*	*
G. Puerto Rico Commercial Fishery (Non-FMP)				Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, gillnet, cast net, spear.			
*	*	*	*	*	*	*	*
2. Exclusive Economic Zone around St. Croix.							
*	*	*	*	*	*	*	*
B. St. Croix Pelagic Fishery (FMP):							
i. Commercial fishery				i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.			
*	*	*	*	*	*	*	*
G. St. Croix Commercial Fishery (Non-FMP)				Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, gillnet, cast net, spear.			
*	*	*	*	*	*	*	*
3. Exclusive Economic Zone around St. Thomas and St. John.							
*	*	*	*	*	*	*	*
B. St. Thomas and St. John Pelagic Fishery (FMP):							
i. Commercial fishery				i. Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel.			

Fishery	Authorized gear types
G. St. Thomas and St. John Commercial Fishery (Non-FMP)	Automatic reel, bandit gear, buoy gear, handline, longline, rod and reel, gillnet, cast net, spear.

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 3. The authority citation for part 622 continues to read as follows:

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

■ 4. In § 622.437:

- a. Revise the section heading;
- b. Revise the introductory text;
- c. Revise paragraph (a);
- d. Add paragraph (b);
- e. Revise paragraph (c)(2); and
- f. Add paragraph (d).

The revisions and additions read as follows:

§ 622.437 Prohibited and required gear and methods.

Trawl, trammel net, and purse seine gear are prohibited for use to fish in the EEZ around Puerto Rico. Also see § 622.9 for additional prohibited gear and methods that apply more broadly to multiple fisheries or in some cases all fisheries.

(a) *Reef fish* means the species as defined in § 622.431.

(1) *Poisons*. A poison, drug, or other chemical may not be used to fish for reef fish in the EEZ around Puerto Rico.

(2) *Powerheads*. A powerhead may not be used in the EEZ around Puerto Rico to fish for reef fish.

(3) *Gillnets*. A gillnet may not be used in the EEZ around Puerto Rico to fish for reef fish.

(4) *Descending device*. At least one descending device is required to be on a vessel and be ready for use while fishing for or possessing reef fish. Descending device means an instrument capable of releasing the fish at the depth from which the fish was caught, and to which is attached a minimum of 16 ounces (454 grams) of weight and a minimum of a 60-foot (ft; 18.3-m) length of line. The descending device may either attach to the fish's mouth or be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish automatically, by actions of the operator of the device, or by allowing the fish to escape on its own when at depth.

(b) *Pelagic fish* means the species as defined in § 622.431. A gillnet may not be used in the EEZ around Puerto Rico to fish for pelagic fish.

(c) * * *

(2) *Gillnets*. A gillnet may not be used in the EEZ around Puerto Rico to fish for spiny lobster.

(d) *Gillnet restrictions*. A gillnet may be used by commercial fishermen in the EEZ around Puerto Rico to fish for species not listed in § 622.431 if the gillnet meets the following requirements:

(1) At all times when the gear is in the water, a gillnet must be tended or supervised by the fisherman that deployed the gear.

(2) The mesh size must be exactly 0.75 inches (1.9 cm) square or 1.5 inches (3.8 cm) stretched.

(3) No more than one gillnet is allowed on board a vessel, counting any gear on the vessel and in the water.

(4) The maximum length of a gillnet measured at the head rope, foot rope, or float line cannot exceed 600 ft (182.9 m).

(5) When a gillnet is deployed in the water, the floats or buoys attached to the gillnet (head rope or float line) must maintain contact with the surface at all times, and the gillnet must not be used within 20 ft (6.1 m) of the bottom and must not be anchored to the bottom.

■ 5. In § 622.477:

- a. Revise the section heading;
- b. Revise the introductory text;
- c. Revise paragraph (a);
- d. Add paragraph (b);
- e. Revise paragraph (c)(2); and
- f. Add paragraph (d).

The revisions and additions read as follows:

§ 622.477 Prohibited and required gear and methods.

Trawl, trammel net, and purse seine gear are prohibited for use to fish in the EEZ around St. Croix. Also see § 622.9 for additional prohibited gear and methods that apply more broadly to multiple fisheries or in some cases all fisheries.

(a) *Reef fish* means the species as defined in § 622.471.

(1) *Poisons*. A poison, drug, or other chemical may not be used to fish for reef fish in the EEZ around St. Croix.

(2) *Powerheads*. A powerhead may not be used in the EEZ around St. Croix to fish for reef fish.

(3) *Gillnets*. A gillnet may not be used in the EEZ around St. Croix to fish for reef fish.

(4) *Descending device*. At least one descending device is required to be on a vessel and be ready for use while fishing for or possessing reef fish.

Descending device means an instrument capable of releasing the fish at the depth from which the fish was caught, and to which is attached a minimum of 16 ounces (454 grams) of weight and a minimum of a 60-foot (ft; 18.3-m) length of line. The descending device may either attach to the fish's mouth or be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish automatically, by actions of the operator of the device, or by allowing the fish to escape on its own when at depth.

(b) *Pelagic fish* means the species as defined in § 622.471. A gillnet may not be used in the EEZ around St. Croix to fish for pelagic fish.

(c) * * *

(2) *Gillnets*. A gillnet may not be used in the EEZ around St. Croix to fish for spiny lobster.

(d) *Gillnet restrictions*. A gillnet may be used by commercial fishermen in the EEZ around St. Croix to fish for species not listed in § 622.471 if the gillnet meets the following requirements:

(1) At all times when the gear is in the water, a gillnet must be tended or supervised by the fisherman that deployed the gear.

(2) The mesh size must be exactly 0.75 inches (1.9 cm) square or 1.5 inches (3.8 cm) stretched.

(3) No more than one gillnet is allowed on board a vessel, counting any gear on the vessel and in the water.

(4) The maximum length of a gillnet measured at the head rope, foot rope, or float line cannot exceed 600 ft (182.9 m).

(5) When a gillnet is deployed in the water, the floats or buoys attached to the gillnet (head rope or float line) must maintain contact with the surface at all times, and the gillnet must not be used within 20 ft (6.1 m) of the bottom and must not be anchored to the bottom.

* * * * *

■ 6. In § 622.512:

- a. Revise the section heading;
- b. Revise the introductory text;
- c. Revise paragraph (a);
- d. Add paragraph (b);
- e. Revise paragraph (c)(2); and
- f. Add paragraph (d).

The revisions and additions read as follows:

§ 622.512 Prohibited and required gear and methods.

Trawl, trammel net, and purse seine gear are prohibited for use to fish in the EEZ around St. Thomas and St. John. Also see § 622.9 for additional prohibited gear and methods that apply more broadly to multiple fisheries or in some cases all fisheries.

(a) *Reef fish* means the species as defined in § 622.506.

(1) *Poisons*. A poison, drug, or other chemical may not be used to fish for reef fish in the EEZ around St. Thomas and St. John.

(2) *Powerheads*. A powerhead may not be used in the EEZ around St. Thomas and St. John to fish for reef fish.

(3) *Gillnets*. A gillnet may not be used in the EEZ around St. Thomas and St. John to fish for reef fish.

(4) *Descending device*. At least one descending device is required to be on a vessel and be ready for use while

fishing for or possessing reef fish.

Descending device means an instrument capable of releasing the fish at the depth from which the fish was caught, and to which is attached a minimum of 16 ounces (454 grams) of weight and a minimum of a 60-foot (ft; 18.3-m) length of line. The descending device may either attach to the fish's mouth or be a container that will retain the fish while it is lowered to depth. The device must be capable of releasing the fish automatically, by actions of the operator of the device, or by allowing the fish to escape on its own when at depth.

(b) *Pelagic fish* means the species as defined in § 622.506. A gillnet may not be used in the EEZ around St. Thomas and St. John to fish for pelagic fish.

(c) * * *

(2) *Gillnets*. A gillnet may not be used in the EEZ around St. Thomas and St. John to fish for spiny lobster.

(d) *Gillnet restrictions*. A gillnet may be used by commercial fishermen in the EEZ around St. Thomas and St. John to

fish for species not listed in § 622.506 if the gillnet meets the following requirements:

(1) At all times when the gear is in the water, a gillnet must be tended or supervised by the fisherman that deployed the gear.

(2) The mesh size must be exactly 0.75 inches (1.9 cm) square or 1.5 inches (3.8 cm) stretched.

(3) No more than one gillnet is allowed on board a vessel, counting any gear on the vessel and in the water.

(4) The maximum length of a gillnet measured at the head rope, foot rope, or float line cannot exceed 600 ft (182.9 m).

(5) When a gillnet is deployed in the water, the floats or buoys attached to the gillnet (head rope or float line) must maintain contact with the surface at all times, and the gillnet must not be used within 20 ft (6.1 m) of the bottom and must not be anchored to the bottom.

[FR Doc. 2024–22243 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register

Vol. 89, No. 189

Monday, September 30, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Notice of Availability of Model Rules of Representative Conduct

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Office of the Chair of the Administrative Conference of the United States (ACUS), through its Working Group on Model Rules of Representative Conduct, has completed and published its *Model Rules of Representative Conduct*. The rules are intended to help federal agencies amend or develop their rules governing representatives in adjudicative proceedings.

The final revised *Model Rules of Representative Conduct* are available at <https://www.acus.gov/research-projects/working-group-model-rules-representative-conduct>.

FOR FURTHER INFORMATION CONTACT: Matthew Gluth, Deputy Research Director, Administrative Conference of the United States, 1120 20th Street NW, Suite 706 South, Washington, DC 20036; Telephone 202-480-2080; email mgluth@acus.gov.

SUPPLEMENTARY INFORMATION: The Administrative Conference Act, 5 U.S.C. 591-596, established ACUS. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies and makes recommendations for improvements to agencies, the President, Congress, and the Judicial Conference of the United States. The Chair of the Conference oversees a full-time staff within the Office of the Chair. The Office of the Chair supports the activities of the Assembly and undertakes many other activities to carry out the mission and functions of ACUS.

In 2019, ACUS adopted Recommendation 2021-9, *Regulation of*

Representatives in Agency Adjudicative Proceedings, 87 FR 1721 (Jan. 12, 2022), which offers best practices for agencies to consider when developing rules governing the participation and conduct of attorneys and non-attorneys who represent parties in adjudicative proceedings. Recommendation 2021-9 also recommended that the Office of the Chair “consider promulgating model rules of conduct” consistent with the Recommendation and, in doing so, “seek the input of a diverse array of agency officials and members of the public, including representatives who appear before agencies, and the American Bar Association.” In 2023, the Chair convened a Working Group of public- and private-sector representatives to develop Model Rules of Representative Conduct that, as contemplated by Recommendation 2021-9, “account for variation in agency practice and afford agencies the flexibility to determine which rules apply to their adjudicative proceedings.”

The Working Group was composed of distinguished experts in the field of administrative adjudication, ranging from adjudicators and agency officials to private practitioners and academics. It first convened in February 2023 and met regularly throughout the following year to consider and ultimately approve a final draft of these Model Rules. The resulting Model Rules—which create a transparent, easily accessible set of guidelines that facilitate a wide range of representation in a broad array of agency proceedings—are intended to help federal agencies amend or develop their rules governing representatives in adjudicative proceedings consistent with the best practices identified in Recommendation 2021-9.

Additional information about ACUS’s Model Rules of Representative Conduct project—including drafts, a listing of the Working Group members, and other related information—can be found on ACUS’s website at <https://www.acus.gov/research-projects/working-group-model-rules-representative-conduct>.

Dated: September 25, 2024.

Shawne McGibbon,
General Counsel.

[FR Doc. 2024-22374 Filed 9-27-24; 8:45 am]

BILLING CODE 6110-01-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Domestic Sugar Program—FY 2024 Reassignment and FY25 Overall Sugar Marketing Allotment, Cane Sugar and Beet Sugar Marketing Allotments and Company Allocations

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture (USDA) is issuing this notice to: revise fiscal year (FY) 2024 (crop year 2023) State cane sugar allotments and allocations to sugarcane processors; reassign FY 2024 cane sugar marketing allocations to raw cane sugar imports already anticipated; and announce the FY 2025 (crop year 2024) overall sugar marketing allotment quantity (OAQ), State cane sugar allotments, and sugar beet and sugarcane processor allocations. The first two actions apply to all domestic cane sugar marketed for human consumption in the United States from October 1, 2023, through September 30, 2024, and third action applies to all domestic beet and cane sugar marketed for human consumption in the United States from October 1, 2024, through September 30, 2025.

FOR FURTHER INFORMATION CONTACT: Carlann Unger, telephone, (773) 573-5163; or email, carlann.unger@usda.gov. Individuals who require alternative means for communication should contact the U.S. 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:

Revisions and Reassignments of FY 2024 Sugar Cane Allotments and Allocations

On October 13, 2023, USDA announced the initial FY 2024 OAQ, which was established at 10,667,500 short tons, raw value, (STRV) equal to 85 percent of the estimated quantity of sugar for domestic human consumption for the fiscal year of 12,550,000 STRV as forecast in the September 2023 World Agricultural Supply and Demand Estimates report (WASDE). The Agricultural Adjustment Act of 1938

(Pub. L. 75–430, 7 U.S.C. chapter 35) requires that 54.35 percent of the OAQ be distributed among beet processors and 45.65 percent be distributed among the sugarcane States and cane processors. The beet and cane sector allotments were distributed to individual processors according to statutory formulas.

On August 2, 2024, USDA announced revisions to the FY 2024 (crop year 2023) State cane sugar allotments and allocations to sugarcane processors, revisions to the company allocations to sugar beet processors, and the reassignment of deficits to raw cane sugar imports already anticipated, as reflected in the second column of the

Table 1 in the published notice (89 FR 63157–63159).

In accordance with section 359e of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ee), after evaluating each sugarcane processor's ability to market its full allocation, USDA now is transferring FY 2024 allocations from sugarcane processors with surplus allocation to those with deficit allocation as shown in the Table 1 below. USDA has also determined that domestic cane sugar supplies are inadequate to fill the FY 2024 cane sugar marketing allotment.

In accordance with 7 U.S.C. 1359ee(b)(2), USDA is reassigning 40,000 STRV of the deficit to raw cane

sugar imports already anticipated, given the absence of any Commodity Credit Corporation (CCC) stocks of sugar. In the table below, each sugar cane processor's allocation resulting from these changes are shown in the column labeled as "Revised Allocations & Allotments" and the amount of change in each cane processor's allocation in the column labeled as "Reassignments."

USDA is not reassigning any FY 2024 beet allocations to raw cane sugar imports at this time given the uncertainty about how much beet sugar will be produced from new crop sugar beets in the final 2 months (August–September) of FY 2024.

TABLE 1—FY 2024 REVISED BEET AND CANE ALLOTMENTS AND ALLOCATIONS

[Short tons, raw value]

Distribution	Initial FY24 allotments & allocations	FY24 revisions 8/2/2024	Reassignments	Revised allotments & allocations
Beet Sugar	5,797,786	5,547,786	0	5,547,786
Cane Sugar	4,869,714	4,269,714	– 40,000	4,229,714
Imports		850,000	40,000	890,000
Total OAQ	10,667,500	10,667,500	0	10,667,500
Beet Processors' Marketing Allocations				
Amalgamated Sugar Co	1,241,350	1,233,233	0	1,233,233
American Crystal Sugar Co	2,132,371	1,967,011	0	1,967,011
Michigan Sugar Co	598,769	686,251	0	686,251
Minn-Dak Farmers Co-op	402,650	373,315	0	373,315
So. Minn Beet Sugar Co-op	782,517	723,206	0	723,206
Western Sugar Co	591,583	514,739	0	514,739
Wyoming Sugar Company, LLC	48,546	50,031	0	50,031
Total Beet Sugar	5,797,786	5,547,786	0	5,547,786
State Cane Sugar Allotments				
Florida	2,617,360	2,147,104	– 38,826	2,108,278
Louisiana	2,024,823	2,059,420	18,244	2,077,664
Texas	227,531	63,190	– 19,418	43,772
Total Cane Sugar	4,869,714	4,269,714	– 40,000	4,229,714
Cane Processors' Marketing Allocations				
Florida:				
Florida Crystals	1,077,635	725,204	– 42,031	683,174
Growers Co-op. of FL	470,825	474,161	22,988	497,149
U.S. Sugar Corp	1,068,900	947,739	– 19,784	927,955
Total Florida	2,617,360	2,147,104	– 38,826	2,108,278
Louisiana:				
Sugar Growers and Refiners	1,405,697	1,425,961	18,244	1,444,205
M.A. Patout & Sons	619,126	633,459	0	633,459
Total Louisiana	2,024,823	2,059,420	18,244	2,077,664
Texas:				
Rio Grande Valley	227,531	63,190	– 19,418	43,772

* Values may not sum to column total due to rounding.

FY 2025 Overall Sugar Marketing Allotment, Cane Sugar and Beet Sugar Marketing Allotments, and Company Allocations

The Agricultural Adjustment Act of 1938, as amended, requires USDA to establish the OAQ at a quantity not less than 85 percent of the estimated quantity of sugar for domestic human consumption for the crop year. USDA is establishing the initial FY 2025 (crop year 2024) OAQ at 10,455,000 STRV, equal to 85 percent of 12,300,000 STRV, the estimated quantity of sugar for domestic human consumption for FY 2025 as forecast in the September 2024 WASDE. Per the Agricultural

Adjustment Act of 1938, as amended, 54.35 percent of the OAQ is distributed among beet processors and 45.65 percent is distributed among the sugarcane States and cane processors, with the beet and cane sector allotments distributed to individual processors according to formulas set out in law.¹ Although the Agricultural Adjustment Act of 1938, as amended, directs USDA to assign 325,000 STRV of the cane sector allotment to “offshore States,” CCC has determined that while sugarcane was formerly produced in Puerto Rico and Hawaii, both have permanently exited sugarcane production. As a result, CCC has

allocated the 325,000 STRV of the cane sector allotment previously reserved for offshore States to the mainland sugarcane producing States. Additionally, because no sugarcane crop is estimated to be produced in Texas during FY 2025 (crop year 2024), CCC is immediately reassigning the Texas portion of the mainland sugarcane allotment, 222,999 STRV, to the other mainland sugarcane producing states on a proportional basis as follows: 125,732 STRV to Florida and 97,267 STRV to Louisiana. The initial FY 2025 sugar marketing State allotments and processor allocations, are listed in the table below.

TABLE 2—FY 2025 INITIAL STATE ALLOTMENTS AND BEET AND CANE PROCESSOR ALLOCATIONS

[Short tons, raw value]

Distribution	Initial FY25 allotments & allocations
Beet Sugar	5,682,293
Cane Sugar	4,772,708
Total OAQ	10,455,000
Beet Processors Marketing Allocations	
Amalgamated Sugar Co	1,216,622
American Crystal Sugar Co	2,089,791
Michigan Sugar Co	586,842
Minn-Dak Farmers Co-op	394,629
So. Minn Beet Sugar Co-op	766,929
Western Sugar Co	579,901
Wyoming Sugar Company, LLC	47,579
Total Beet Sugar	5,682,293
State Cane Sugar Allotments	
Florida	2,690,953
Louisiana	2,081,755
Texas	0
Total Cane Sugar	4,772,708
Cane Processors' Marketing Allocations	
Florida:	
Florida Crystals	1,107,936
Growers Co-op. of FL	484,063
U.S. Sugar Corp	1,098,954
Total Florida	2,690,953
Louisiana:	
Sugar Growers and Refiners	1,445,222
M.A. Patout & Sons	636,533
Total Louisiana	2,081,755
Texas:	
Rio Grande Valley	0

* Values may not sum to column total due to rounding.

¹ See 7 U.S.C. 1359aa–1359ll, and 7 CFR part 1435.

USDA will closely monitor stocks, consumption, imports and all sugar market and program variables on an ongoing basis and may make program adjustments during FY 2025 if needed.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; (2) Fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Steven Peterson,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2024-22384 Filed 9-27-24; 8:45 am]

BILLING CODE 3411-E2-P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

[Docket ID FSA-2023-0005]

Application Fast Track Pilot Program—Extension

AGENCY: Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: The Farm Service Agency (FSA) is announcing the extension of the Application Fast Track (AFT) pilot program that was launched August 7, 2023, which continues the expedited processing of qualified direct Operating Loans (OL) and Farm Ownership Loans (FO) to family farmers and ranchers. AFT has been available to all customers nationwide since January 1, 2024. AFT is being extended through December 31, 2025, to allow time for FSA to continue to evaluate the administrative effectiveness of AFT. The initial results of AFT reflect a significant improvement in processing times for all customers, and FSA is continuing to monitor loan performance, and overall satisfaction with the AFT pilot program from both customers and staff.

FOR FURTHER INFORMATION CONTACT: Houston Bruck; telephone: (202) 650-7874; or by email: houston.bruck@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 is extending the “Application Fast Track” that was launched August 7, 2023 (88 FR 51260-51265), which continues the expedited processing of qualified direct OLs and FOs to family farmers and ranchers. AFT provides an alternative underwriting process for applicants that meet certain financial benchmarks. AFT has been available to all customers nationwide since January 1, 2024. The AFT pilot provisions are unchanged in this notice from what was announced in the August 7, 2023, notice.

Authority

The authority to conduct AFT is provided in section 333D of the Consolidated Farm and Rural Development Act (CONACT, 7 U.S.C. 1983d), which authorizes pilot projects of limited scope and duration to evaluate processes and techniques to

improve program efficiency and effectiveness.

AFT Initial Results

The initial results of AFT reflect a significant improvement in processing times for all customers, and FSA is continuing to monitor loan performance, overall satisfaction with the AFT pilot program from both customers and staff, and the administrative effectiveness of AFT. The initial results of the AFT pilot program have resulted in approximately 22 percent of customers qualifying for AFT, with significant reduction in processing time for those applications by approximately 8 calendar days. Customers not qualifying for AFT are also realizing an improvement in processing times of approximately 1 calendar day.

Comments Received

FSA received three public comments to the initial publication announcing the AFT pilot program. Two of the comments were critical of the Federal government's involvement in farm lending and are outside the scope of the AFT pilot program. One of the comments expressed concern over the potential for overpayments and that the initial AFT pilot offices were not available in all locations.

The lending program does not provide payments to farmers. Also, after the initial roll-out period of August 2023 through December 2023, the AFT pilot program was expanded to all locations nationwide in January 2024.

Contact Information

Questions on AFT may be directed to the Farm Loan Programs staff in the local FSA county office. The local FSA county office may be found at <http://www.farmers.gov/working-with-us/USDA-service-centers>.

Paperwork Reduction Act Requirements

In accordance with the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), there are no changes the information collection approved by OMB under control numbers 0560-0236 and 0560-0237.

Environmental Review

The environmental impacts have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulations for compliance with NEPA (7 CFR part 799).

The purpose of AFT is to improve internal underwriting processes to expedite Farm Loan Programs application processing. The limited discretionary aspects of AFT do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the categorical exclusions in 7 CFR 799.31(b)(3)(i) that applies to Farm Loan Programs, provided no extraordinary circumstances are found to exist. As such, the implementation of AFT and the participation in AFT do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Assistance Listing, to which this document applies is 10.406 Farm Operating Loans and 10.407 Farm Ownership Loans.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and USDA civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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

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

USDA is an equal opportunity provider, employer, and lender.

Steven Peterson,

Administrator, Farm Service Agency.

[FR Doc. 2024-22353 Filed 9-27-24; 8:45 am]

BILLING CODE 3411-E2-P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Farm Service Agency

[Docket ID FSA-2024-009]

Notice of Funds Availability (NOFA); Organic Dairy Marketing Assistance Program 2024 (ODMAP 2024)

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notification of funds availability.

SUMMARY: The Farm Service Agency (FSA) is announcing the availability of marketing assistance funding to organic dairy operations in the United States. The organic dairy farms have faced—and still continue to face—a variety of challenges, and many are struggling to remain organic dairy operations, which is why FSA is issuing this notice to provide marketing assistance payments to eligible organic dairy operations to help expand the market for organic dairy and increase the consumption of organic dairy. ODMAP 2024 will provide payments to assist organic dairy operations with projected marketing costs for 2024.

DATES: *Applications Due Date:* We will accept applications from September 30, 2024 through November 29, 2024.

FOR FURTHER INFORMATION CONTACT: Douglas Kilgore, (717) 887-0963, douglas.e.kilgore@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Over the past several years, organic dairy farms have faced—and continue to face—a variety of challenges, and many are struggling to remain in business. Notably, organic dairy operations have limited ability to pass along cost increases to retailers or consumers without leading to a decrease in domestic consumption of organic dairy. The cost increases have, in many cases, eliminated profit margins, especially among operations that do not have the ability to take advantage of economies of scale. Without intervention, marketing and operational challenges may result in decisions to cease organic dairy operations entirely, which will reduce the organic dairy market.

The organic dairy market is closely linked to the domestic organic feed market. Reduction in organic dairy numbers would consequently result in reduction in organic feed demand. Organic grain and forage commodities have traditionally been relatively small markets where the domestic U.S. demand for organic feed has outstripped supply, resulting in the need for imports. Input costs and availability, especially feed, have seen several years of sustained increases and volatility due to a variety of factors that has impacted increased costs of production. In 2023, drought conditions affected many areas in which organic dairies operate. Many of these operations rely on grazing and therefore required the purchase of forage from a distressed and limited market. Contraction of the organic industry, including availability of organic forage operators, also continues to affect the availability of major organic feed and forage commodities for organic dairy operations.

In addition to these input costs and challenges, organic dairy farmers also have seen higher delivery and marketing costs as in prior years, especially those related to transportation and hauling. As part of the system through which all dairy farmers provide milk and dairy products to consumers, dairies bear the costs of milk hauling and other marketing costs. These marketing costs for organic dairies, however, can be significantly greater than the conventional market because of the unique and limited marketing system structure within the United States. In addition, participants in the organic dairy sector must take additional steps to keep the organic milk separated and its status as organic clearly preserved. In some cases, these requirements necessitate longer and more costly hauling routes, including the costs of finding truck drivers willing to cover

longer routes with multiple stops. Finding truckers with the experience and training to operate tanker trucks and irregular scheduling for milk hauling, exacerbates these challenges further.

Organic dairy operations also tend to be smaller farms than conventional dairy operations, which means they often have less production to spread the various fixed costs over or have higher per unit costs. Additionally, marketing costs that include cooperative dues, capital retains, and mandated advertising and promotional assessments influence the bottom line of organic dairy operations, especially small and mid-size operations. Therefore, organic dairy operations often do not benefit from the same economies of scale as conventional dairies. In particular, milk pick-up and hauling costs may be a challenge due to the need to have dedicated organic pick-up routes that need to stop at multiple farms or use smaller tankers.

FSA will administer ODMAP 2024 in a similar manner as the previous ODMAP NOFA for 2023 published on May 24, 2023 (87 FR 33563–33564); however, FSA has made changes to improve the operation of ODMAP, as explained in this NOFA, including a revision of the marketing assistance payment calculation by using organic milk pricing instead of commercial milk pricing.

ODMAP 2024 will provide payments to eligible organic dairy operations that produce milk from cows as well as organic dairy operations that produce milk from goats and sheep. All three types of organic dairy operations are eligible since all three types of operations face the same challenges related to organic marketing and generally follow similar business and marketing models, such as pooling milk through cooperatives or selling directly to milk processors that make dairy products such as cheese. While there are fewer, and, therefore, less data available on, organic dairy operations that produce milk from goats and sheep compared to cows, based on the fact that all three operations face the same challenges and have the same business and marketing models, the impact of increased marketing costs to the market for, and therefore consumption of, organic dairy is understood to remain constant across all three.

Data to estimate the marketing costs for all species relies on conventional cow milk estimates, since more specific national organic cow, sheep, or goat estimates are not available. Given the unique marketing challenges and strategies for organic dairy operations

discussed above, these conventional estimates are likely to be conservative and do not reflect the full marketing costs for organic production.

Through ODMAP 2024, USDA is assisting organic dairy operations by providing payments to assist with their projected marketing costs in 2024. The Commodity Credit Corporation (CCC) Charter Act (15 U.S.C. 714c(e)) includes authority for CCC to use its general powers and funding to increase the domestic consumption of agricultural commodities (other than tobacco) by expanding or aiding in the expansion of domestic markets or by developing or aiding in the development of new and additional markets, marketing facilities, and uses for such commodities. USDA is providing this marketing assistance to organic dairy producers to help keep organic dairies in operation by aiding in the expansion of the domestic market for organic dairy, which will increase domestic consumption of organic dairy, in order to counteract the currently projected reduction in this market. According to USDA's Organic Integrity Database, from 2021 through 2024, 19 percent of certified organic dairy operations have gone out of business. Without the ODMAP 2024 marketing assistance, it is projected that organic dairies, and particularly small organic dairies, may cease or decrease organic dairy production and reduce the domestic supply and consumption of organic milk.

FSA designed ODMAP 2024 to provide marketing assistance to certified organic dairy operations that produce organic milk from dairy cows, dairy goats, or dairy sheep. ODMAP 2024 provides one-time payment for a cost share of projected marketing costs for eligible organic dairies for 2024, not to exceed 9 million pounds of organic milk marketed per operation. FSA has increased the production level eligible for cost share assistance to 9 million pounds from the 5 million used in the 2023 version of ODMAP in order to make additional assistance available to organic dairy operations that are vulnerable due to narrow margins and at risk of going out of business. For ODMAP in 2023, eligible organic dairy operations were limited to cost-share assistance on their first 5 million pounds of production. Upon further review, FSA determined that increasing the production level eligible for cost-share assistance in ODMAP 2024 from 5 million pounds to 9 million pounds¹

¹ FSA's increase to 9 million pounds aligns with a change made in 2023 in the Pandemic Market Volatility Assistance Program administered by the Agricultural Marketing Service (AMS) for organic

would broaden the level of support provided by this program to provide a greater impact on the market for organic dairy. While all eligible organic dairy operations may receive cost-share assistance on up to 9 million pounds of production, this increased production level for cost-share will provide a greater impact on the marketing of small and mid-sized organic dairy operations who are most vulnerable to market impacts because of higher input costs from lacking the economies of scale of larger operations and for whom this higher production level represents a greater proportion of these dairies' overall production. This increased production level eligible for cost-share is intended to further increase consumption of organic dairy by providing greater assistance to producers to market their organic dairy products and thereby expand the availability of marketed organic dairy products.

All organic dairy operations that apply for ODMAP 2024 will be required to provide their USDA certification of organic status, confirming their operation as an organic dairy operation at the time of application. In order to calculate projected marketing costs for 2024, the streamlined process will have operations certify to their organic milk production for the 2023 calendar year, that was marketed directly as organic milk or indirectly through organic dairy products or a projection of pounds of organic milk marketed in 2024 if warranted due to changes in circumstances between 2023 and 2024 supported by documentation as discussed further below. While production documentation for 2023 production is not required at the time of application, operations should retain supporting documentation and calculations for 3 years should they be selected for a spot check.

FSA will administer ODMAP 2024 on behalf of CCC, using CCC funds. The ODMAP 2024 payment may be issued in 2 parts.

There is \$58 million from CCC funds available for ODMAP 2024 marketing assistance. ODMAP 2024 payments will be subject to availability of funding. FSA will make an initial payment to eligible applicants factored by 75 percent. If sufficient available funding remains at the conclusion of the application period, an additional payment of up to the remaining 25 percent may be made to each eligible

dairy farmers to increase the eligibility cap for payments in that program from 5 million to 9 million pounds, an increase intended to provide additional support to medium-sized organic dairy farmers.

applicant if USDA determines that additional marketing assistance is still needed.

The funds announced in this NOFA are not subject to sequestration.

Average Milk Marketing Cost

The only available estimates to calculate an average milk marketing cost are from milk marketed through the Federal Milk Marketing Orders (FMMO), which is primarily conventional cow milk. There are no national-level data sets on milk marketing and hauling costs specific to organic sheep or goat operations. While an estimated average milk marketing cost from FMMO is likely conservative given the likely higher per unit costs for smaller operations that are more common for organic production, and the unique marketing challenges facing organic dairy operations, the similarities in marketing options and costs between conventional and organic make it the best proxy available. This is particularly true after FSA adjusts the estimated average milk marketing cost from the FMMO by using the 2021 NASS All-Milk price for organic milk, which better takes into account the increased price for organic milk as compared to the conventional price of milk used under ODMAP for 2023.

To develop the ODMAP 2024 payment rate, FSA worked with the Agricultural Marketing Service (AMS) to determine an average marketing cost per hundredweight, using the AMS data from the FMMO regional model documentation (<https://www.ams.usda.gov/sites/default/files/media/FinalDecisionEconometricModelDocumentation.pdf>), which estimates the relationship between each FMMO uniform milk price and the National Agriculture Statistics Service (NASS) all-milk price. To take into account the price difference between conventional milk and organic milk, the 2021 NASS All-Milk price for organic milk is used to determine an average marketing cost per hundredweight instead of the 2020 All-Milk price for conventional milk used for ODMAP.

Through this comparison using the 2021 NASS All-Milk price for organic milk, the model estimates the milk marketing and hauling fees that are deducted in the net producer milk marketing statements (producers' paychecks).

Averaging these estimates of milk marketing costs among orders results in an average of \$1.68 per hundredweight for 2023, which will be used as the average milk marketing cost to calculate the ODMAP 2024 payment.

Eligibility

To be eligible for ODMAP, the organic dairy operation must produce and market organic milk from cows, goats, or sheep at the time of application, provide their USDA Certification of organic status for 2024, and have documentation to support any certified projection of 2024 pounds of organic milk marketed.

To be eligible for ODMAP 2024 marketing assistance each applicant must:

(1) Submit a FSA-630-1 application and any additional required documentation as specified in the Application Process section below; and

(2) Comply with all provisions of this NOFA and comply with the following regulations:

- 7 CFR part 12—Highly Erodible Land and Wetland Conservation; and
- 7 CFR 718.6, Controlled Substance; and
- 7 CFR part 707—Payments Due Persons Who Have Died, Disappeared, or Have Been declared Incompetent, if applicable.

In addition, consistent with other FSA assistance programs, a producer must be a:

- Citizen of the United States;
- Resident alien, which for purposes of ODMAP 2024 means "lawful alien" as defined in 7 CFR 1400.3;
- Partnership consisting solely of citizens of the United States or resident aliens; or
- Corporation, limited liability company, or other organizational structure organized under State law consisting solely of citizens of the United States or resident aliens.

Federal, State, and local governments are not eligible for ODMAP 2024 payments.

Payment Rates and Calculations

The ODMAP 2024 initial payment will be calculated by using the producer-certified pounds of organic milk projected to be marketed in 2024, multiplied by the \$1.68 per cwt ODMAP 2024 payment rate, multiplied by a factor of 75 percent. The pounds of organic milk projected to be marketed in 2024 will be:

- (i) the self-certified organic milk production marketed directly by the operation in 2023 or used as inputs in related-organic dairy products marketed in 2023, that can be supported by documentation maintained in the ordinary course of business, or
- (ii) if approved by the Deputy Administrator, an operation-specific certified estimate of organic milk projected to be marketed in 2024 that is supported by documentation

maintained in the ordinary course of business from the applicant.

Operations that (a) transitioned to organic in 2023 or 2024, (b) are new organic operations in 2023 or 2024, or (c) have increased organic milk production capacity by 15 percent or greater in 2024 as compared to 2023, may request to use a certified estimate of their operation's reasonably projected organic milk to be marketed in 2024 based on average daily organic production of current herd that can be supported by documentation maintained in the ordinary course of business, including, but not limited to milk marketing statements, active base milk production records, contemporaneous records, or similar supporting documentation, as may be requested by the Deputy Administrator. These operations must provide an explanation of the basis for their monthly projections on the form FSA-630-1 and how those projections are supported by the supporting documentation they submit with the application. All organic dairy operations making such a request must submit with their application all available 2024 milk marketing statements, in addition to all other documentation necessary to support their certification. Organic dairy operations should contact their local FSA Service Center if they have questions regarding their particular circumstances and the documentation necessary to support such a request. The request will be evaluated by the Deputy Administrator at the Deputy Administrator's discretion to assess whether the estimate is adequately supported by documentation and reasonable based on the documented average daily production of current organic herd.

The ODMAP 2024 initial payments factored at 75 percent will be made to eligible applicants on a rolling basis as applications are submitted and approved. If funds remain at the conclusion of the application period, a second payment to eligible applicants of up to the remaining 25 percent may be issued subject to available funding and a determination by FSA of the need for additional marketing assistance based on discussions with USDA experts and economists, industry, and stakeholders regarding impact of initial marketing assistance on domestic consumption of organic dairy.

Organic dairy operations are only eligible for payment on up to 9 million pounds of organic milk.

Application Process

FSA will make available to organic dairy operations form FSA-630-1 to

apply for assistance for 2023 milk production or 2024 estimated milk production for dairy operations that provide supporting documentation demonstrating increased estimated 2024 milk production in comparison to 2023 milk production. FSA will accept applications from September 30, 2024 through November 29, 2024. To apply for ODMAP 2024 marketing assistance, all applicants must submit a completed form FSA-630-1 and all other required documentations to their administrative FSA county office by November 29, 2024.

Applicants must submit the following forms, if not already on file, in person or by mail, email, facsimile:

- Form FSA-630-1, ODMAP 2024 Application;
- Manual Form CCC-902-I, Farm Operating Plan for an Individual, as applicable;
- Manual Form CCC-902E, Farm Operating Plan for an Entity, as applicable;
- CCC-901, Member Information for Legal Entities (if applicable);
- AD-1026, Highly Erodible Land Conservation (HELC) and Wetland Conservation (WC) Certification; and
- AD-2047, Customer Data Worksheet.

The Deputy Administrator has the discretion and authority to waive or modify filing deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of ODMAP 2024. Although producers have a right to a decision on whether they filed applications by the deadline or not, producers have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator's refusal to exercise discretion on requests to waive or modify ODMAP 2024 provisions will not be considered an adverse decision and is, by itself, not appealable.

Evaluation and Approval of Payments

FSA will review each ODMAP 2024 application and supporting documentation to determine eligibility. FSA, on behalf of CCC, will approve applications for an ODMAP 2024 payment for eligible applicants consistent with the terms specified in this document.

If requested by FSA, the applicant must provide additional supporting documentation to verify the accuracy of information provided on the

application. If any supporting documentation is requested, the documentation must be submitted to FSA within 30 calendar days from the request or the application will be disapproved by FSA, and, if payment has been made, full ODMAP 2024 payment will be required to be refunded to FSA with interest from the date of disbursement. ODMAP 2024 is subject to the availability of funding and will be funded in the order in which applications are approved. If additional funding is allocated to ODMAP 2024 after initial funding is depleted, additional applications will be reviewed, approved, and funded, if the eligibility criteria is met, in the order received during the application period, subject to the availability of those additional funds.

An ODMAP 2024 initial payment will be issued after an application is approved. At the end of the application period, a second payment may be issued to eligible applicants.

Provisions Requiring Refund to FSA

In the event any ODMAP 2024 payment resulted from erroneous information or a miscalculation, the payment will be recalculated, and the participant must refund any excess payment to FSA with interest to be calculated from the date of the disbursement to the participant. If, for whatever reason, FSA determines that the applicant misrepresented either the reported organic milk production or organic certification or is otherwise ineligible for payment, the application will be disapproved, and the full ODMAP 2024 payment will be required to be refunded to FSA with interest from the date of disbursement. ODMAP 2024 applications, the form FSA-630-1, will be reviewed and spot-checked by FSA for program eligibility and payment calculation purposes through milk marketing statements or similar supporting documentation. ODMAP 2024 participants must retain all supporting documentation for 3 years.

The liability of anyone for any penalty or sanction resulting from an ODMAP 2024 application, or for any refund to FSA, is in addition to any other liability of such person under any civil or criminal fraud statute or any other provision of law including, but not limited to: 18 U.S.C. 286, 287, 371, 641, 651, 1001, and 1014; 15 U.S.C. 714; and 31 U.S.C. 3729.

Miscellaneous Provisions

Appeal regulations specified in 7 CFR parts 11 and 780 apply. FSA program requirements and determinations that are not in response to, or result from, an

individual disputable set of facts in an individual participant's application for assistance are not matters that can be appealed.

Paperwork Reduction Act Requirements

In compliance with the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), the information collection request has been approved by OMB under the control number of 0503-0028. FSA will collect the information from the organic dairy operations to qualify for the ODMAP 2024 payment. ODMAP 2024 provides one-time payment to the eligible organic dairy operations as described in this NOFA.

Environmental Review

The environmental impacts have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321-4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and the FSA regulations for compliance with NEPA (7 CFR part 799).

The purpose of ODMAP 2024 is to provide marketing assistance funding to organic dairy operations in the United States to increase the domestic consumption of organic milk and organic milk products by aiding in the expansion of the organic milk market. The limited discretionary aspects of ODMAP 2024 do not have the potential to impact the human environment as they are administrative. Accordingly, these discretionary aspects are covered by the categorical exclusions in 7 CFR 799.31(b)(6)(iii) that applies to price support programs, provided no extraordinary circumstances are found to exist. As such, the implementation of ODMAP 2024 and the participation in ODMAP 2024 do not constitute major Federal actions that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this action and this document serves as documentation of the programmatic environmental compliance decision for this federal action.

Federal Assistance Programs

The title and number of the Federal assistance programs, as found in the Assistance Listing, to which this document applies is 10.977, Organic Dairy Marketing Assistance Program (ODMAP) 2024.

USDA Non-Discrimination Policy

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family or parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

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

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at <https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint> and at any USDA office or write a letter addressed to USDA and provide in the letter all the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail to: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410; (2) Fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

USDA is an equal opportunity provider, employer, and lender.

Steven Peterson,

Administrator, Farm Service Agency, and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2024-22346 Filed 9-27-24; 8:45 am]

BILLING CODE 3411-E2-P

DEPARTMENT OF AGRICULTURE**Forest Service****Gifford Pinchot National Forest; Washington; Spirit Lake Outflow Safety Improvement Project**

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA Forest Service is preparing an environmental impact statement for the Spirit Lake Outflow Safety Improvement Project (Project). Spirit Lake is within the Mount St. Helens National Volcanic Monument within the Gifford Pinchot National Forest, about 52 miles northeast of Portland, Oregon. The purpose of the Project is to provide for the safety of downstream communities by reducing the risk of flooding and mudflows from a failure of the Spirit Lake debris blockage. The Spirit Lake tunnel is at risk of failure due to its construction under emergency conditions and location in an area of volcanic, geologic, hydrologic, and seismic hazards. Downstream communities of nearly 50,000 people are at risk of catastrophic mudflow and flooding following a full lake breach. The Planning, Appeals, and Litigation System identification number for the Project is 66482.

DATES: Comments concerning the scope of the analysis must be received by November 14, 2024. The draft environmental impact statement is expected May 2025, and the final environmental impact statement is expected October 2025.

ADDRESSES: Send written scoping comments via U.S. Mail to Kelsey Jolley, Spirit Lake NEPA Coordinator, 987 McClellan Road, Vancouver, WA 98661. Comments may also be submitted electronically through the Comment and Analysis Response Application (CARA) at <https://cara.fs2c.usda.gov/Public/CommentInput?Project=66482>. An in-person public scoping meeting will be held at the Cowlitz County Event Center located at 1900 7th Avenue, Longview, Washington from 4 to 8 p.m. on Wednesday October 23, 2024.

FOR FURTHER INFORMATION CONTACT:

Kelsey Jolley, NEPA Coordinator, Phone: 360-891-5021, Email: SM.FS.SpiritLake@usda.gov. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339, 24 hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:**Purpose and Need for Action**

The purpose of the Spirit Lake Outflow Safety Improvement Project is to provide for the safety of downstream communities by reducing the risk of flooding and mudflows from a failure of the Spirit Lake debris blockage. Following the 1980 eruption of Mount St. Helens, Spirit Lake's natural outlet to the Toutle River system was blocked by the landslide and debris flow from the eruption. The Spirit Lake tunnel was constructed under emergency conditions to address the imminent public safety threat posed by rising water levels in Spirit Lake. The tunnel is in an area with volcanic, geologic, hydrologic, and seismic hazards. The geological pressures on the tunnel have caused rock heave, compression, cracking, and support failures, necessitating periodic repairs. As the tunnel ages, it will require more frequent and longer closures for repair to prevent failure. It is not expected to remain serviceable without significant repair and/or upgrade. A failure would result in rising lake levels that could exceed the maximum safe operating level, at which point pressure from rising water levels could force the breaching of the natural debris blockage, putting the downstream population of approximately 50,000 people at risk of catastrophic flooding and mudflows.

The actions proposed for this project are needed to:

- Accommodate lake level rise from a flood event without exceeding a designated maximum safe level. The current average operating level is 3,440 feet $\pm$ 4 feet, with a maximum safe level of 3,460 feet elevation. Reduced tunnel diameter from shear led to a reduction in the maximum design discharge of the tunnel. Reduction in design discharge leads to faster lake level rise during storm events. For this reason, the tunnel is no longer functioning at optimal capacity, which increases the risk of debris blockage failure as lake levels approach the maximum safe level of 3,460 feet elevation.

- Improve access reliability to outflow infrastructure. Current travel to the existing intake infrastructure takes an average of 4.5 hours and requires a combination of travel modes including high-clearance passenger vehicle, utility terrain vehicle, and boat. This access does not allow for mobilization of heavy equipment to the inlet for necessary repair. A moving, floating, 40-acre log debris mat can prevent boat access depending on weather conditions. The site is under snow a significant portion of the year, which precludes year-round access to the inlet. Helicopter access is

often not viable throughout the year due to poor weather conditions.

- Provide outflow redundancy. There is currently only one outflow configuration with the existing tunnel, and any reduction in outflow capacity increases the risk of debris blockage failure. Two previous tunnel repairs that required tunnel closure have led to lake levels approaching the maximum safe level of 3,460 feet elevation. A redundant outflow that accommodates design discharge will allow for extended closure of the primary outflow for repair, while maintaining a safe operating level.

- Reduce long-term outflow operation and maintenance burden. The existing outflow infrastructure needs significant repair to operate at optimal design capacity. The existing tunnel has not been a long-term, resilient outflow solution over the last 30 years as repeated necessary repairs have been a significant maintenance burden.

Proposed Action and Alternatives

In 2016, the Gifford Pinchot National Forest commissioned the National Academies of Science, Engineering and Medicine (NASEM) to develop *Decision Making Framework for Managing the Spirit Lake and Toutle River System*. NASEM recommended a multi-criteria decision-making approach that considers a range of alternatives. Based on a preliminary study conducted by the Forest Service and Army Corps of Engineers, extensive working group coordination, and subsequent engineering feasibility analyses, the Forest Service has identified six potential outflow improvement, as follows, that the environmental impact statement will consider:

- constructing an open outlet channel, which maintains Spirit Lake at its current elevation, with the redundant measure of rehabilitating the existing outlet tunnel;
- constructing an open outlet channel that drains Spirit Lake, with the redundant measure of upgrading the existing outlet tunnel and modifying its intake depth;
- rehabilitating the existing outlet tunnel in shear zones (areas in volcanic tuffs decomposed to weak rock and swelling clays) with the redundant measure of a permanent pumping station;
- constructing a new pressure tunnel parallel to the existing tunnel, with a redundant measure of rehabilitating the existing outlet tunnel in shear zones;
- rehabilitating the existing outlet tunnel in shear zones, with a redundant measure of a buried conduit within the debris blockage that releases water

during storm events or during maintenance of the primary outlet; and

- converting the existing tunnel into a pressure tunnel, with the redundant measure of lake storage with an updated maximum safe lake level.

To align with NASEM guidance this NOI does not specify a preferred alternative.

As required under the National Environmental Policy Act (NEPA), the Forest Service will also evaluate a no action alternative in which no changes to current Spirit Lake outflow tunnel or lake level management strategies would be made.

Expected Effects

The draft environmental impact statement will identify and describe the potential effects of the alternatives on the human environment. Those potential effects must be reasonably foreseeable and must have a reasonably close causal relationship to the alternatives. Such effects include those that occur at the same time and place as the alternatives and those that are later in time or occur in a different place. The Project is expected to result in potential impacts to the following resources: air quality; aquatic, plant, and terrestrial biological resources; cultural resources; fire and fuels; floodplains; hydrology, and water quality; forestry and land use; geology and soils; heritage resources; public safety; recreation; roads and access; and scenic and visual resources. The level of review of the identified resources for the environmental impact statement will be commensurate with the anticipated effects to each resource and will be governed by the statutory or regulatory requirements protecting those resources.

Lead and Cooperating Agencies

The U.S. Department of Agriculture's Forest Service is the lead agency. U.S. Army Corps of Engineers and U.S. Geological Survey will likely be cooperating agencies; work is ongoing to complete cooperating agency agreements.

Responsible Official

The Responsible Official is the Gifford Pinchot National Forest Supervisor.

Scoping Comments and the Objection Process

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. The Agency is requesting comments on potential alternatives and impacts, and identification of any relevant information, studies, or analyses of any

kind concerning impacts affecting the quality of the human environment. A public scoping meeting will be held at the Cowlitz County Event Center located at 1900 7th Avenue, Longview, Washington from 4 to 8 p.m. on Wednesday October 23, 2024. The Forest Service will accept written comments at the scoping meeting.

Reviewers should provide their comments at such times and in such manner that they are useful to the agency's preparation of the final environmental impact statement; therefore, comments should be provided prior to the close of the comment period and should clearly articulate the reviewer's concerns and contentions. Commenting during scoping and any other designated opportunity to comment provided by the Responsible Official as prescribed by the applicable regulations will also govern eligibility to object once the final environmental impact statement and draft record of decision has been published. Comments received in response to this solicitation, including names and addresses of those who comment, will be part of the public record for this proposed action.

Comments submitted anonymously will be accepted and considered; however, they will not be used to establish eligibility for the objection process.

Objections will be accepted only from those who have previously submitted specific written comments regarding the proposed Project during scoping or other designated opportunity for public comment in accordance with 36 CFR 218.5(a). Issues raised in objections must be based on previously submitted timely, specific written comments regarding the proposed Project unless based on new information arising after designated opportunities.

Permits, Licenses or Other Authorizations Required

A U.S. Army Corps of Engineers Section 408 review and permission for any project activities that may cause downstream sedimentation or have the potential to affect a U.S. Army Corps of Engineers Civil Works project such as the Sediment Retention Structure or levees will be required. Depending on project details for the chosen alternative Section 401 and Section 404 permits through the U.S. Army Corps of Engineers may also be required.

Nature of Decision To Be Made

Given the purpose and need, the Responsible Official will determine whether the proposed actions comply with all applicable laws governing Forest Service actions and with the applicable standards and guidelines

found in the Forest Plan; whether the EIS has sufficient environmental analysis to make an informed decision; and whether the proposed action meets the purpose and need for action. With this information, the Responsible Official must decide whether to select the proposed action and what, if any, additional actions should be required.

Substantive Provisions

Guidance for management of the Monument comes from the 1985 Mount St. Helens National Volcanic Monument's Comprehensive Management Plan, which is fully incorporated into the 1990 Gifford Pinchot National Forest Land and Resource Management Plan (Forest Plan), as amended by the 1994 Record of Decision for Amendments to Forest Service and Bureau of Land Management Planning Documents within the Range of the Northern Spotted Owl.

All actions authorized by the Forest Service on National Forest System lands must be consistent with the Forest Plan. If a proposed project-specific action is not consistent with the Forest Plan, the Responsible Official may modify the proposed action to make it consistent with the plan, reject the proposed action, or amend the plan such that the action will be consistent with the plan, as amended. When proposing a forest plan amendment, the planning regulations require the Responsible Official to identify in this notice which specific substantive requirements (36 CFR 219.8 through 219.11) are directly related to the plan direction being modified by the amendment based on the purpose of the amendment or the effects of the amendment (36 CFR 219.13(b)(5)).

The substantive requirements that are likely directly related to the purpose of the forest plan amendments are 36 CFR 219.8(a)(3)(i)(B), 219.8(a)(3)(i)(G), and 219.8(b)(1).

An amendment to Management Area A Recreation—Planning and Inventory standard and guideline 2 may be needed to allow project activities within the Monument and for potential road upgrades along the road corridors of FS-99 and FR-25 to exceed the Retention VQO during project implementation. The substantive requirements that are likely directly related to the effects of this forest plan amendment are 36 CFR 219.8(b)(2), 219.10(a)(1), and 219.10(b)(1)(i).

An amendment to Management Area A Recreation—Use Administration standard and guideline 2 may be needed to allow for off-road vehicle during the summer during project implementation.

The substantive requirements that are likely directly related to the effects of this forest plan amendment are 36 CFR 219.8(a)(2)(ii), 219.10(a)(1), and 219.10(a)(5).

An amendment to Management Area A Facilities—Road Operations standard and guideline 1 may be needed to add National Forest System road(s) in the area. The substantive requirement that is likely directly related to the effects of this forest plan amendment is 36 CFR 219.10(a)(3).

An amendment to Management Area A Facilities—Road Operations standards and guidelines 2 and 3 may be needed to allow for road and off-road vehicle use on Deer and Elk Winter Range from December 1 to April 1 during project implementation. The substantive requirements that are likely directly related to the effects of this forest plan amendment are 36 CFR 219.9(a)(1), 219.10(a)(1), and 219.10(a)(5).

Keith Lannom,

Associate Deputy Chief, National Forest System.

[FR Doc. 2024–22159 Filed 9–27–24; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Business Enterprise Research and Development Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on May 29, 2024, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: Business Enterprise Research and Development Survey.

OMB Control Number: 0607–0912.

Form Number(s): BRD–1.

Type of Request: Regular submission, Request for an Extension, without

Change, of a Currently Approved Collection.

Number of Respondents: 47,500.

Average Hours per Response: 2 hours and 37 minutes.

Burden Hours: 124,450.

Needs and Uses: The Census Bureau is requesting clearance to continue to conduct the Business Enterprise Research and Development Survey (BERD) for the 2024–2026 survey years without change. Companies are the major performers of research and development (R&D) in the United States, accounting for over 70 percent of total U.S. R&D expenditures each year. A consistent business R&D information base is essential to government officials formulating public policy, industry personnel involved in corporate planning, and members of the academic community conducting research. To develop policies designed to promote and enhance science and technology, past trends and the present status of R&D must be known and analyzed. Without comprehensive business R&D statistics, it would be impossible to evaluate the health of science and technology in the United States or to make comparisons between the technological progress of our country and that of other nations.

BERD is a joint statistical project between the National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) and the Census Bureau. The National Science Foundation Act of 1950 as amended authorizes and directs the National Science Foundation “. . . to provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal government” and the authority was renewed by Section 505 of the America COMPETES Reauthorization Act of 2010. This mandate is fulfilled by NCSES. One of the methods used by NCSES to fulfill this mandate is the BERD (and its predecessor surveys)—the primary federal source of information on R&D in the business sector. NCSES together with the Census Bureau, the collecting and compiling agent, analyze the data and publish the resulting statistics.

NCSES has published annual R&D statistics collected from the Survey of Industrial Research and Development (1953–2007), the Business R&D and Innovation Survey (2008–2016), the Business Research and Development Survey (2017 and 2018), and the Business Enterprise Research and Development Survey (2019–2023) for 70

years. The results of the surveys are used to assess trends in R&D expenditures by industry sector, investigate productivity determinants, formulate science and tax policy, and compare individual company performance with industry averages. This survey is the Nation's primary source for international comparative statistics on business R&D spending.

BERD will continue to collect the following types of information:

- R&D expense based on accepted accounting standards.
- Worldwide R&D of domestic companies.
- Business segment detail.
- R&D related capital expenditures.
- Detailed data about the R&D workforce.

Beginning in 2019, in an effort to reduce burden, BERD began rotating select content off the survey in alternating years. In 2019, questions related to intellectual property and technology transfer were removed from the survey. In 2020, questions related to detail of R&D performed by others, activities with academia, industries of business and specific federal agency funding R&D, and areas of application for R&D were removed and the intellectual property and technology transfer questions rotated back on. This cycle of rotating content has continued. In 2021, the Capital Expenditures section was revised to collect additional information on assets. Proposed at that time was to collect two consecutive years of data (for 2021 and 2022) and rotate select asset content off the survey in alternating years. So, in 2023, BERD would have had a subset of the asset content, and in 2024, all of the asset content would have been included on the survey. This proposed content rotation did not occur in 2023.

However, the rotation will commence in 2024. Resulting in a subset of the asset content collected in 2024 and all of the asset content collected in 2025 and so on, similar to the other rotating content. Census and NCSES will continue to explore content that could be collected less frequently than annual in an effort to continue to reduce respondent burden.

Information from BERD will continue to support NCSES' responsibility to collect information on Research and Development for overall support for Federal policy discussions, as required under the America COMPETES Reauthorization Act of 2010.

Policy officials from many Federal agencies rely on these statistics for essential information. Businesses and

trade organizations rely on BERD data to benchmark their industry's performance against others. For example, total U.S. R&D expenditures statistics are used by the Bureau of Economic Analysis (BEA) for incorporating R&D as fixed investment in updates to the National Income and Product Accounts (NIPAs). Also, NCSES, BEA and the Census Bureau periodically seek to use BERD data to augment global R&D investment information that is obtained from BEA's Foreign Direct Investment (FDI) and U.S. Direct Investment Abroad (USDIA) surveys. Further, the Census Bureau links data collected by BERD with other statistical files. At the Census Bureau, historical company-level R&D data are linked to a file that contains information on the outputs and inputs of companies' manufacturing plants. Researchers can analyze the relationships between R&D funding and other economic variables by using micro-level data.

Individuals and organizations access the survey statistics via the internet in annual InfoBriefs published by NCSES that announce the availability of statistics from each cycle of BERD and detailed statistical table reports that contain all the statistics NCSES produces from BERD. Information about the kinds of projects that rely on statistics from BERD is available from internal records of Census' Center for Economic Studies. In addition, survey statistics are regularly cited in trade publications and many researchers use the survey statistics from these secondary sources without directly contacting NCSES or the Census Bureau. Some of the users of the survey statistics and the types of information they request are described below.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: The survey is conducted under the authority of Title 13, United States Code, Sections 8(b), 131, and 182; Title 42, United States Code, Sections 1861–76 (National Science Foundation Act of 1950, as amended); and Section 505 within the America COMPETES Reauthorization Act of 2010.

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day

Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0912.

Sheleen Dumas,

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

[FR Doc. 2024–22361 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Current Population Survey (CPS) 2025 Field Test

AGENCY: Census Bureau, Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act (PRA) of 1995, invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment on the proposed new information collection, Current Population Survey (CPS) 2025 Field Test, prior to the submission of the information collection request (ICR) to OMB for approval.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before November 29, 2024.

ADDRESSES: Interested persons are invited to submit written comments by email to Kyra Linse, Survey Director, Current Population Surveys via the internet at dsd.cps@census.gov. Please reference Current Population Survey (CPS) 2025 Field Test in the subject line of your comments. You may also submit comments, identified by Docket Number USBC–2024–0023, to the Federal e-Rulemaking Portal: <http://www.regulations.gov>. All comments received are part of the public record. No comments will be posted to <http://www.regulations.gov> for public viewing until after the comment period has closed. Comments will generally be posted without change. All Personally Identifiable Information (for example, name and address) voluntarily submitted by the commenter may be

publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. You may submit attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Kyra Linse, Survey Director, Current Population Surveys via the internet at dsd.cps@census.gov, or by phone at 301-763-9280.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance from the Office of Management and Budget (OMB) for the collection of information related to a field test of the Current Population Survey (CPS) in calendar year 2025.

The CPS has been the source of official government statistics on employment and unemployment since 1942. The Bureau of Labor Statistics (BLS) and the Census Bureau jointly sponsor the basic monthly survey. The Census Bureau also prepares and conducts all the field work. The CPS collects labor force information for the civilian noninstitutional population including employment status, number of hours worked, job search activities, earnings, duration of unemployment, and the industry and occupation classification of the job held the previous week. Data for the CPS are currently collected by Census field interviewers via in-person interviews or by telephone.

The 2025 Field Test's goal is to test the use of an internet self-response method to measure its success as a possible method of contact and interviewing with the goal of review accuracy, reporting, and representativeness. In addition, should it prove as a viable response method, the goal is to experiment with timing and contacts in order to refine procedures that best fit the needs of CPS. This is the first of two major field tests with the second in 2026, and an ultimate goal to phase in changes to the survey in 2027.

II. Method of Collection

The 2025 field test is planned for April 2025 until November 2025. The goal is to replicate the expected mode interaction of adding a self-response mode as close as possible to a production environment. The first interview will be conducted via computer-assisted person interview

(CAPI) mode, and most cases will be followed up for three months with a mix of internet Self Response and CAPI follow-up based on the previous month's interview results and data reported. All cases will be in sample for four months. In addition, some cases will be put on hold for two months and then interviewed again in order to replicate the break in a normal CPS in a shorter interval. In addition, we will conduct experiments such as question wording, contact methods, and timing of mode switching in order to measure the best method to encourage response by internet mode and the best wording for accurate self-response reporting.

III. Data

OMB Control Number: 0607-XXXX.

Form Number(s): None.

Type of Review: Regular submission, New Information Collection Request.

Affected Public: Households.

Estimated Number of Respondents: 50,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden

Hours: 33,333 hours.

Estimated Total Annual Cost to Public: \$0.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C. 8(b), 141, and 182.

IV. Request for Comments

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

Comments that you submit in response to this notice are a matter of public record. We will include, or summarize, each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying

information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

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

[FR Doc. 2024-22369 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Quarterly Survey of Public Pensions

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 June 6, 2024, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: Quarterly Survey of Public Pensions.

OMB Control Number: 0607-0143.

Form Number(s): F-10.

Type of Request: Regular submission, Request for an Extension, without Change, of a Currently Approved Collection.

Number of Respondents: 100.

Average Hours per Response: 45 minutes.

Burden Hours: 300.

Needs and Uses: The Quarterly Survey of Public Pensions provides a rich source of data on public retirement systems administered by state and local governments in the United States. Over 4.6 trillion dollars in public pension assets in the financial markets are controlled by a small number of large retirement systems. The frame for the 2012 Census of Governments identified 3,992 public retirement systems administered by state and local governments. The 100 largest systems, as measured by the system assets,

account for about 87.2 percent of the total assets of all systems, based on the 2012 Census of Governments. The Quarterly Survey of Public Pensions is used to collect data on the revenues, expenditures, and composition of assets of the 100 largest defined benefit public employee pension systems for state and local governments. The panel will be updated in 2025 based on the results of the 2022 Census of Governments.

Currently, we are requesting approval to conduct the 2025, 2026 and 2027 Quarterly Survey of Public Pensions. We are requesting no changes to the currently approved information collection form. The Quarterly Survey of Public Pensions enables policy makers and economists to focus on the asset base of public employee retirement systems while balancing respondent burden and data quality and providing a timelier subset of the data published in the Annual Survey of Public Pensions.

This survey was initiated in 1968 at the request of both the Council of Economic Advisers and the Federal Reserve Board. The most important information this survey provides is the quarterly change in composition of the securities holdings of the defined benefit public employee retirement systems component of the economy. The Federal Reserve Board uses these data to track the public sector portion of the Flow of Funds Accounts. Additionally, the data are used by a variety of government officials, academics, students, and non-profit organizations to analyze trends in public employee retirement and the impact of retirement obligations on the fiscal well-being of state and local governments.

The survey provides a focus on the asset composition of the largest systems. These data are already produced for existing internal and external needs, and most closely align with the needs of the Federal Reserve Board. Additionally, the related Annual Survey of Public Pensions (0607–0585) will continue to provide a robust collection of revenue and benefit data on a fiscal year basis. These data items are in demand on an annual basis and are already created for internal and external purposes by most systems as they are required items in Comprehensive Annual Financial Reports (CAFRs).

Summary tables of the information collected are released quarterly on the internet. Documentation and explanatory materials are also available on the internet site here: <https://www.census.gov/programs-surveys/qsp.html>.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.
Legal Authority: Title 13, U.S.C., Section and 182.

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

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function and entering either the title of the collection or the OMB Control Number 0607–0143.

Sheleen Dumas,

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

[FR Doc. 2024–22365 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Pierre Michel Alfred, 24 Hartland Court, Pooler, GA 31322, and, P.O. Box 1274, Pooler, GA 31322; Order Denying Export Privileges.

On June 15, 2022, in the U.S. District Court for the Southern District of Florida, Pierre Michel Alfred (“Alfred”) was convicted of violating 18 U.S.C. 554(a). Specifically, Alfred was convicted of smuggling multiple firearms and ammunition from the United States to Haiti. As a result of his conviction, the Court sentenced Alfred to three years of probation.

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Alfred’s conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the

Export Administration Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Alfred to make a written submission to BIS. 15 CFR 766.25.² BIS has not received a written submission from Alfred.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Alfred’s export privileges under the Regulations for a period of seven years from the date of Alfred’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Alfred had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:
First, from the date of this Order until June 15, 2029, Pierre Michel Alfred, with last known addresses of 24 Hartland Court, Pooler, GA 31322 and P.O. Box 1274, Pooler, GA 31322, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Alfred by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Alfred may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Alfred and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until June 15, 2029.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024–22334 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Rafael Alejandro Canez, Inmate Number: 74044–308, USP Tucson, P.O. Box 24550, Tucson, AZ 85734; Order Denying Export Privileges

On March 31, 2023, in the U.S. District Court for the Western District of Washington, Rafael Alejandro Canez (“Canez”) was convicted of violating 18 U.S.C. 554(a). Specifically, Canez was convicted of smuggling 55 magazines for AR–15 style rifles, having failed to apply for or obtain the necessary export license from the Department of Commerce. As a result of his conviction, the Court sentenced Canez to 35 months of imprisonment and three years of supervised release. The Court also imposed a consecutive sentence of 35 months’ imprisonment for Canez’s conviction under 18 U.S.C. 1956(h) (conspiracy to commit money laundering).

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Canez’s conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Canez to make a written submission to BIS. 15 CFR 766.25.² BIS has not received a written submission from Canez.

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Canez’s export privileges under the Regulations for a period of 10 years from the date of Canez’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Canez had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until March 31, 2033, Rafael Alejandro Canez, with last known addresses of Inmate Number: 74044–308, USP Tucson, P.O. Box 24550, Tucson, AZ 85734, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Canez by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Canez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Canez and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until March 31, 2033.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024–22336 Filed 9–27–24; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Robert Omar Alcantara, Inmate Number: 80882–509, FCI Oakdale II, Federal Correctional Institution, P.O. Box 5010, Oakdale, LA 71463; Order Denying Export Privileges

On December 21, 2023, in the U.S. District Court for the Southern District of New York, Robert Omar Alcantara (“Alcantara”) was convicted of violating 18 U.S.C. 371. Specifically, Alcantara was convicted of conspiring to traffic firearms from the United States to the Dominican Republic. As a result of his conviction, the Court sentenced Alcantara to 60 months’ imprisonment and three years of supervised release. The Court also imposed a concurrent sentence of 68 months’ imprisonment for Alcantara’s conviction under 18 U.S.C. 1956(h) (conspiracy to commit money laundering).

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Alcantara’s conviction for violating 18 U.S.C. 371. As provided in section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Alcantara to make a written submission to BIS. 15 CFR 766.25.² BIS has not received a written submission from Alcantara.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Alcantara’s export privileges under the Regulations for a period of 10 years from the date of Alcantara’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which

Alcantara had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until December 21, 2033, Robert Omar Alcantara, with a last known address of Inmate Number: 80882–509, FCI Oakdale II, Federal Correctional Institution, P.O. Box 5010, Oakdale, LA 71463, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Alcantara by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Alcantara may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Alcantara and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until December 21, 2033.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024-22337 Filed 9-27-24; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

**In the Matter of: Robert Thwaites
Inmate Number: 77709-066, FTC
Oklahoma City, Federal Transfer
Center, P.O. Box 898801, Oklahoma
City, OK 73189; Order Denying Export
Privileges**

On January 10, 2024, in the U.S. District Court for the Eastern District of Pennsylvania, Robert Thwaites (“Thwaites”), was convicted of violating 18 U.S.C. 371 and the International

Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*) (“IEEPA”). Specifically, Thwaites was convicted of conspiring to sell sanctioned Iranian petroleum/crude oil to a refinery in China. As a result of his conviction, the Court sentenced Thwaites to 10 months of imprisonment, two years of supervised release, and a fine of \$3,000.

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371 and IEEPA, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Thwaites’s conviction for violating 18 U.S.C. 371 and IEEPA, and has provided notice and opportunity for Thwaites to make a written submission to BIS, as provided in section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”). 15 CFR 766.25.² BIS has received and considered a written submission from Thwaites.

Based upon my review of the record, including Thwaites’s submission, and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Thwaites’s export privileges under the Regulations for a period of 10 years from the date of Thwaites’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Thwaites had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until January 10, 2034, Robert Thwaites, with a last known address of Inmate Number: 77709-066, FTC Oklahoma City, Federal Transfer Center, P.O. Box 898801, Oklahoma City, OK 73189, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity,

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 and, as amended, is codified at 50 U.S.C. 4801–4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation,

maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Thwaites by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Thwaites may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Thwaites and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until January 10, 2034.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024-22340 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Nicholas Hovan, Inmate Number: 69967-066, FDC Houston, Federal Detention Center, P.O. Box 526255, Houston, TX 77052; Order Denying Export Privileges

On January 10, 2024, in the U.S. District Court for the Eastern District of Pennsylvania, Nicholas Hovan ("Hovan"), was convicted of violating 18 U.S.C. 371 and the International Emergency Economic Powers Act (50 U.S.C 1701, *et seq.*) ("IEEPA"). Specifically, Hovan was convicted of conspiring to sell sanctioned Iranian petroleum/crude oil to a refinery in China. As a result of his conviction, the Court sentenced Hovan to 12 months plus one day of imprisonment, two years of supervised release, and a fine of \$3,000.

Pursuant to section 1760(e) of the Export Control Reform Act ("ECRA"),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C.

371 and IEEPA, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Hovan's conviction for violating 18 U.S.C. 371 and IEEPA, and has provided notice and opportunity for Hovan to make a written submission to BIS, as provided in section 766.25 of the Export Administration Regulations ("EAR" or the "Regulations"). 15 CFR 766.25.² BIS has not received a written submission from Hovan.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Hovan's export privileges under the Regulations for a period of 10 years from the date of Hovan's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Hovan had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until January 10, 2034, Nicholas Hovan, with a last known address of Inmate Number: 69967-066, FDC Houston, Federal Detention Center, P.O. Box 526255, Houston, TX 77052, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives ("the Denied Person"), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging

in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Hovan by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Hovan may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 and, as amended, is codified at 50 U.S.C. 4801-4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Hovan and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until January 10, 2034.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024–22341 Filed 9–27–24; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Melony Erice, Inmate Number: 26513–104, FCI Marianna, Federal Correctional Institution, P.O. Box 7007, Marianna, FL 32447; Order Denying Export Privileges

On September 2, 2023, in the U.S. District Court for the Central District of California, Melony Erice (“Erice”), was convicted of violating 18 U.S.C. 371. Specifically, Erice was convicted of participating in a conspiracy to sell technical drawings stolen from the U.S. government to domestic and foreign customers. As a result of her conviction, the Court sentenced Erice to 18 months in prison and three years of supervised release.

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Erice’s conviction for violating 18 U.S.C. 371. As provided in section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Erice to make a written submission to BIS. 15 CFR 766.25.² BIS has not

received a written submission from Erice.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Erice’s export privileges under the Regulations for a period of five years from the date of Erice’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Erice had an interest at the time of her conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until September 29, 2028, Melony Erice, with a last known address of Inmate Number: 26513–104, FCI Marianna, Federal Correctional Institution, P.O. Box 7007, Marianna, FL 32447, and when acting for or on her behalf, her successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been

or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Erice by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Erice may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Erice and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until September 29, 2028.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024–22333 Filed 9–27–24; 8:45 am]

BILLING CODE 3510-DT-P

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Nicholas James Fuchs, Inmate Number: 77708–066, USP Lompoc, 3901 Klein Blvd., Lompoc, CA 93436; Order Denying Export Privileges

On January 16, 2024, in the U.S. District Court for the Eastern District of Pennsylvania, Nicholas James Fuchs (“Fuchs”), was convicted of violating 18 U.S.C. 371 and the International Emergency Economic Powers Act (50 U.S.C 1701, *et seq.*) (“IEEPA”). Specifically, Fuchs was convicted of conspiring to sell sanctioned Iranian petroleum/crude oil to a refinery in China. As a result of his conviction, the Court sentenced Fuchs to 10 months of imprisonment, two years of supervised release, and a fine of \$3,000.

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371 and IEEPA, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Fuchs’s conviction for violating 18 U.S.C. 371 and IEEPA, and has provided notice and opportunity for Fuchs to make a written submission to BIS, as provided in section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”). 15 CFR 766.25.² BIS has not received a written submission from Fuchs.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Fuchs’s export privileges under the Regulations for a period of 10 years from the date of Fuchs’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Fuchs had an interest at the time of his conviction.³

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 and, as amended, is codified at 50 U.S.C. 4801–4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial

Accordingly, it is hereby *ordered*: *First*, from the date of this Order until January 16, 2034, Nicholas James Fuchs, with a last known address of Inmate Number: 77708–066, USP Lompoc, 3901 Klein Blvd., Lompoc, CA 93436, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is

orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Fuchs by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Fuchs may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Fuchs and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until January 16, 2034.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024–22342 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Mark Fitting, Inmate Number: 07194–509, FCI Lewisburg, Federal Correctional Institution, P.O. Box 1000, Lewisburg, PA 17837; Order Denying Export Privileges

On September 29, 2023, in the U.S. District Court for the Central District of California, Mark Fitting (“Fitting”), was convicted of violating 18 U.S.C. 371. Specifically, Fitting used his access to U.S. Government databases to download technical drawings without authorization and participated in a conspiracy to sell those drawings to

domestic and foreign customers. As a result of his conviction, the Court sentenced Fitting to 41 months in prison and three years of supervised release.

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security (“BIS”) licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Fitting’s conviction for violating 18 U.S.C. 371. As provided in section 766.25 of the Export Administration Regulations (“EAR” or the “Regulations”), BIS provided notice and opportunity for Fitting to make a written submission to BIS. 15 CFR 766.25.² BIS has not received a written submission from Fitting.

Based upon my review of the record and consultations with BIS’s Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Fitting’s export privileges under the Regulations for a period of 10 years from the date of Fitting’s conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Fitting had an interest at the time of his conviction.³

Accordingly, it is hereby *Ordered*:

First, from the date of this Order until September 29, 2033, Mark Fitting, with a last known address of Inmate Number: 07194–509, FCI Lewisburg, Federal Correctional Institution, P.O. Box 1000, Lewisburg, PA 17837, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (“the Denied Person”), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Fitting by ownership, control,

position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Fitting may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Fitting and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until September 29, 2033.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024–22343 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Zhenyu Wang, a/k/a Bill Wang, Inmate Number: 77710–066, FCI Allenwood Low, Federal Correctional Institution, P.O. Box 1000, White Deer, PA 17887; Order Denying Export Privileges

On June 11, 2024, in the U.S. District Court for the Eastern District of Pennsylvania, Zhenyu Wang, a/k/a Bill Wang (“Wang”), was convicted of violating 18 U.S.C. 371 and the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*) (“IEEPA”). Specifically, Wang was convicted of conspiring to sell sanctioned Iranian petroleum/crude oil to a refinery in China. As a result of his conviction, the Court sentenced Wang to 45 months of imprisonment, and three years of supervised release.

Pursuant to section 1760(e) of the Export Control Reform Act (“ECRA”),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371 and IEEPA, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e) (Prior Convictions). In addition, any Bureau of Industry and Security (BIS) licenses or other authorizations issued under ECRA, in which the

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801–4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 and, as amended, is codified at 50 U.S.C. 4801–4852.

person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Wang's conviction for violating 18 U.S.C. 371 and IEEPA, and has provided notice and opportunity for Wang to make a written submission to BIS, as provided in section 766.25 of the Export Administration Regulations ("EAR" or the "Regulations"). 15 CFR 766.25.² BIS has not received a written submission from Wang.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Wang's export privileges under the Regulations for a period of 10 years from the date of Wang's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Wang had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until June 11, 2034, Zhenyu Wang, a/k/a Bill Wang, with a last known address of Inmate Number: 77710-066, FCI Allenwood Low, Federal Correctional Institution, P.O. Box 1000, White Deer, PA 17887, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives ("the Denied Person"), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or

from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of the Export Control Reform Act (50 U.S.C. 4819(e)) and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Wang by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Wang may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Wang and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until June 11, 2034.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024-22339 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Dali Bagrou, 715 Wellingbrough Court, Alpharetta, GA 30005; Order Denying Export Privileges

On November 10, 2021, in the U.S. District Court for the Southern District of Georgia, Dali Bagrou ("Bagrou"), was convicted of violating 18 U.S.C. 371. Specifically, Bagrou was convicted of conspiring to procure U.S.-origin industrial equipment for transshipment to Russia without first having obtained the required licenses or authorizations from the U.S. Department of Commerce. As a result of his conviction, the Court sentenced Bagrou to 51 months in prison with credit for time served, and three years of supervised release.

Pursuant to section 1760(e) of the Export Control Reform Act ("ECRA"),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 371, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security ("BIS") licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Bagrou's conviction for violating 18 U.S.C. 371. As provided in section 766.25 of the Export Administration Regulations ("EAR" or the "Regulations"), BIS provided notice and opportunity for Bagrou to make a written submission to BIS. 15 CFR 766.25.² BIS has received and considered a written submission from Bagrou.

Based upon my review of the record, including Bagrou's submission, and consultations with BIS's Office of

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders, pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801-4852.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2024).

Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Bagrou's export privileges under the Regulations for a period of 10 years from the date of Bagrou's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Bagrou had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until November 10, 2031, Dali Bagrou, with a last known address of 715 Wellingbrough Court, Alpharetta, GA 30005, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives ("the Denied Person"), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Bagrou by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Bagrou may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Bagrou and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until November 10, 2031.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024-22338 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Cerbando Acosta-Carbajal, Inmate Number: 82716-051, FCI Bastrop, Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602; Order Denying Export Privileges

On June 15, 2022, in the U.S. District Court for the District of New Mexico, Cerbando Acosta-Carbajal ("Acosta-Carbajal") was convicted of violating 18 U.S.C. 554(a). Specifically, Acosta-Carbajal was convicted of attempting to smuggle from the United States to Mexico, a Palmetto PSAK47 7.62 rifle; ACC Int/Intrac 7.62 rifle; Petronov Armament/DDI 47S 7.62 rifle; American Tactical M1911 GI-E .45 ACP handgun; Star BM 9 mm handgun; Beretta MOD M9A# 9mm handgun; 1,968 rounds 7.62x39 ammunition; 1,361 rounds of .223 ammunition; nine 30-round 7.62x39 AK rifle magazines; one 50-round AK drum magazine; nine 30-round .233 AR rifle magazines; two 8-round .45 caliber handgun magazines; seven 17-round 9 mm handgun magazines; and one 30-round 9mm handgun magazine without first having obtained a license and written authorization for such export. As a result of his conviction, the Court sentenced Acosta-Carbajal to 70 months of imprisonment, with credit for time served and three years of supervised release.

Pursuant to section 1760(e) of the Export Control Reform Act ("ECRA"),¹ the export privileges of any person who has been convicted of certain offenses, including, but not limited to, 18 U.S.C. 554, may be denied for a period of up to ten (10) years from the date of his/her conviction. 50 U.S.C. 4819(e). In addition, any Bureau of Industry and Security ("BIS") licenses or other authorizations issued under ECRA, in which the person had an interest at the time of the conviction, may be revoked. *Id.*

BIS received notice of Acosta-Carbajal's conviction for violating 18 U.S.C. 554. As provided in section 766.25 of the Export Administration Regulations ("EAR" or the "Regulations"), BIS provided notice and opportunity for Acosta-Carbajal to make a written submission to BIS. 15 CFR

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

¹ ECRA was enacted on August 13, 2018, as part of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, and as amended is codified at 50 U.S.C. 4801-4852.

766.25.² BIS has not received a written submission from Acosta-Carbajal.

Based upon my review of the record and consultations with BIS's Office of Exporter Services, including its Director, and the facts available to BIS, I have decided to deny Acosta-Carbajal's export privileges under the Regulations for a period of 10 years from the date of Acosta-Carbajal's conviction. The Office of Exporter Services has also decided to revoke any BIS-issued licenses in which Acosta-Carbajal had an interest at the time of his conviction.³

Accordingly, it is hereby *ordered*:

First, from the date of this Order until June 15, 2032, Cerbando Acosta-Carbajal, with a last known address of Inmate Number: 82716-051, FCI Bastrop, Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives ("the Denied Person"), may not directly or indirectly participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership,

possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, pursuant to section 1760(e) of ECRA and sections 766.23 and 766.25 of the Regulations, any other person, firm, corporation, or business organization related to Acosta-Carbajal by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with part 756 of the Regulations, Acosta-Carbajal may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Acosta-Carbajal and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until June 15, 2032.

John Sonderman,

Director, Office of Export Enforcement.

[FR Doc. 2024-22335 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-DT-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-972]

Stilbenic Optical Brightening Agents From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2023-2024

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

SUMMARY: The U.S. Department of Commerce (Commerce) is rescinding the administrative review of the antidumping order on stilbenic optical brightening agents (OBAs) from the People's Republic of China (China), covering the period of review (POR) May 1, 2023, through April 30, 2024, because, as explained below, there are no reviewable entries for the companies that are subject to review.

DATES: Applicable September 30, 2024.

FOR FURTHER INFORMATION CONTACT: Stephanie Trejo 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) 482-4390.

SUPPLEMENTARY INFORMATION:

Background

On May 10, 2012, Commerce published in the **Federal Register** the antidumping duty order on OBAs from China.¹ On May 2, 2023, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the *Order*.² On May 31, 2024, Commerce received a timely request from a U.S. producer of the domestic like product, Archroma, U.S., Inc. (Archroma), in accordance with 19 CFR 351.213(b)(1), to conduct an administrative review of the *Order* for five companies.³ We received no other requests for review.

On July 5, 2024, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), Commerce published in the **Federal Register** a notice of initiation of the administrative review with respect to the five companies for which Archroma requested a review: (1) Beijing Odyssey

¹ See *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 77 FR 27423 (May 10, 2012).

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List*, 89 FR 35778 (May 2, 2024).

³ See Archroma's Letter, "Request for Administrative Review," dated May 31, 2024.

² The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730-774 (2024).

³ The Director, Office of Export Enforcement, is the authorizing official for issuance of denial orders pursuant to amendments to the Regulations (85 FR 73411, November 18, 2020).

Chemical Ind. Co. Ltd, (2) Hebei Dianchang Chemicals Co. Ltd., (3) Jinan Subang Fine Chemical Co., Ltd., (4) Zhejiang Hongda Chemicals Co., Ltd., and (5) Zhejiang Transfar Whyyon Chemical Co., Ltd.⁴ On July 10, 2024, Commerce placed U.S. Customs and Border Protection (CBP) entry data for U.S. imports of the subject merchandise during the POR on the record for respondent selection purposes.⁵ On July 17, 2024, Archroma submitted comments on the CBP data.⁶ On, August 2, 2024, we re-released the CBP data because our first CBP data release inadvertently did not include all of the possible company names combinations.⁷ On August 9, 2024, Archroma submitted comments on the re-release of the CBP data.⁸

On September 6, 2024, Commerce notified all interested parties of its intent to rescind the instant review in full because there were no reviewable, suspended entries of subject merchandise by any of the five companies listed in the *Initiation Notice* during the POR and invited parties to comment.⁹ No parties submitted comments in response to this notice.

Scope of the Order

The stilbenic OBAs covered by this *Order* are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.*, all derivatives of 4,4'-bis [1,3,5- triazin-2-yl] ¹⁰ amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The stilbenic OBAs covered by this *Order* include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of stilbenic OBA products.

Excluded from this *Order* are all forms of 4,4'-bis[4-anilino-6-morpholino-1,3,5-triazin-2-yl] amino-2,2'-stilbenedisulfonic acid, C₄₀H₄₀N₁₂O₈S₂ ("Fluorescent Brightener 71"). This *Order* covers the above-described compounds in any state (including but

not limited to powder, slurry, or solution), of any concentrations of active stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.*, mixtures or blends, whether of stilbenic OBAs with each other, or of stilbenic OBAs with additives that are not stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the Harmonized Tariff Schedule of the United States ("HTSUS"), but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), it is Commerce's practice to rescind an administrative review of an antidumping duty order where it concludes that there were no reviewable entries of subject merchandise during the POR.¹¹ Normally, upon completion of an administrative review, the suspended entries are liquidated at the antidumping duty assessment rate for the review period.¹² Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the calculated antidumping duty assessment rate for the review period.¹³ As noted above, the CBP data results confirmed that there were no entries of subject merchandise during the POR with respect to all of the companies subject to this review. Accordingly, in the absence of reviewable, suspended entries of subject merchandise during the POR, we are rescinding this administrative review, in its entirety, in accordance with 19 CFR 351.213(d)(3).

Cash Deposit Requirements

As Commerce has proceeded to a final rescission of this administrative review, no cash deposit rates will change. Accordingly, the current cash deposit requirements shall remain in effect until further notice.

¹¹ See, e.g., *Dioctyl Terephthalate from the Republic of Korea: Rescission of Antidumping Administrative Review; 2021–2022*, 88 FR 24758 (April 24, 2023); see also *Certain Carbon and Alloy Steel Cut-to-Length Plate from the Federal Republic of Germany: Rescission of Antidumping Administrative Review; 2020–2021*, 88 FR 4154 (January 24, 2023).

¹² See 19 CFR 351.212(b)(2).

¹³ See 19 CFR 351.213(d)(3).

Assessment Rates

Commerce will instruct CBP to assess antidumping duties on all appropriate entries. Because Commerce is rescinding this review in its entirety, the entries to which this administrative review pertained shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP 35 days after the publication of this notice in the **Federal Register**.

Notification Regarding Administrative Protective Order

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of the APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with regulations and terms of an APO is a violation, which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: September 24, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–22281 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: National Institute of Standards and Technology (NIST)'s Information Security and Privacy Advisory Board (ISPAB) will hold an open meeting on Wednesday, November

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 89 FR 55567 (July 5, 2024) (*Initiation Notice*).

⁵ See Memorandum, "Release of Customs Data from U.S. Customs and Border Protection," dated July 10, 2024.

⁶ See Archroma's Letter, "Comments on Customs and Border Protection Data," dated July 17, 2024.

⁷ See Memorandum, "Re-Release of Customs Data from U.S. Customs and Border Protection," dated August 2, 2024.

⁸ See Archroma's Letter, "Comments on Re-Released Customs and Border Protection Data," dated August 9, 2024.

⁹ See Memorandum, "Notice of Intent to Rescind Review," dated September 6, 2024.

¹⁰ The brackets in this sentence are part of the chemical formula.

6, 2024, from 10:00 a.m. until 4:30 p.m., Eastern Time and Thursday, November 7, 2024, from 10:00 a.m. until 4:30 p.m., Eastern Time.

DATES: The ISPAB will meet on Wednesday, November 6, 2024, from 10:00 a.m. until 4:30 p.m., Eastern Time and Thursday, November 7, 2024, from 10:00 a.m. until 4:30 p.m., Eastern Time.

ADDRESSES: The meeting will be held virtually via webinar. Please note participation instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Jeff Brewer, ISPAB Designated Federal Official, National Institute of Standards and Technology, Telephone (301) 975-2489. Mr. Brewer's email address is jeffrey.brewer@nist.gov.

SUPPLEMENTARY INFORMATION:

Authority: The ISPAB was established to function solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001 *et seq.* The Board reports to the Director of NIST, and reports annually to the Secretary of Commerce, the Secretary of Homeland Security, the Director of the Office of Management and Budget, the Director of the National Security Agency, and appropriate committees of Congress. The Board is authorized under 15 U.S.C. 278g-4 and tasked with identifying emerging managerial, technical, administrative, and physical safeguard issues relative to information security and privacy.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. 1001 *et seq.*, notice is hereby given that the ISPAB will hold an open meeting on the date and time in the **DATES** section and will be open to the public. Primary purpose of this meeting is to discuss and deliberate potential recommendations. The agenda may change to accommodate ISPAB business. The final agenda will be posted on the NIST website at <https://csrc.nist.gov/Events/2024/ispab-november-2024-meeting>, and is expected to include the following items:

- Board Introductions and Member Activities,
- Update on NIST's Information Technology Laboratory (ITL) Activities,
- Briefing from NIST on the NIST Security and Privacy Frameworks,
- Discussion on Cybersecurity Metrics and Measurements,
- Presentation and Discussion on Vulnerability Markets as a Metric,
- Briefing on Breach and Incident Response Notification,

- Presentation from NIST on Small Business Corner Project,
- Presentation by Industry on Common Weakness Enumerations (CWEs) and their Use,
- Update on the NIST Cybersecurity and Privacy Program,
- Update on the Request for Information on Privacy Impact Assessments,
- Public comments,
- Board Discussions and Recommendations.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the Board's business are invited to request a place on the agenda. Approximately thirty minutes will be reserved for public comments and speaking times will be assigned on a first-come, first-serve basis. The amount of time per speaker will be determined by the number of requests received but is likely to be about five minutes each. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to participate are invited to submit written statements by email to jeffrey.brewer@nist.gov.

All participants will be attending via webinar and are required to pre-register to be admitted to the meeting. To register and receive detailed instruction on how to join the meeting, please submit your first and last name, email address, and company name via the registration link at <https://csrc.nist.gov/Events/2024/ispab-november-2024-meeting>, by 5 p.m. Eastern Time, November 5, 2024.

Alicia Chambers,
NIST Executive Secretariat.

[FR Doc. 2024-22401 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-13-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE287]

Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit

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

ACTION: Notice; receipt of application for exempted fishing permit.

SUMMARY: This notice announces NMFS' receipt of an application and the public comment period for an exempted fishing permit (EFP) from Trident Seafoods. If issued, this permit would allow the applicant to develop and test modifications to the footrope of pelagic trawl gear. The purpose and goal of this EFP, if issued, would be to exempt participating vessels from complying with the regulation defining the footrope for pelagic trawl gear. Field testing would be conducted between January 20, 2025 and December 31, 2027, and the EFP would expire at the end of that period. This experiment would test trawl gear design that aims to minimize seafloor contact by the footrope when targeting pollock that are on or near the seafloor and thus promote the objective of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) to protecting habitat that fish need to spawn, breed, feed, and grow to maturity.

DATES: Comments on this EFP application must be submitted to NMFS on or before October 15, 2024. The North Pacific Fishery Management Council (Council) will consider the application at its meeting from September 30, 2024 through October 8, 2024.

ADDRESSES: The Council meeting will be held virtually and in person in Anchorage, AK. The agenda for the Council meeting is available at <https://www.npfmc.org>. In addition to submitting public comments during the Council meeting through the Council website, you may submit your comments, identified by NOAA-NMFS-2024-0106, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e Rulemaking Portal. Go to <https://www.regulations.gov> and enter [NOAA-NMFS-2024-0106] in the Search box (note: copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Records Office. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

- *Instructions:* Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record

and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Electronic copies of the EFP application and the basis for a categorical exclusion under the National Environmental Policy Act are available from <https://www.regulations.gov> or from the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

FOR FURTHER INFORMATION CONTACT: Maggie Chan, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands (BSAI) under the Fishery Management Plan (FMP) for Groundfish of the BSAI Management Area (BSAI FMP). The Council prepared the BSAI FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* Regulations governing the BSAI groundfish fisheries appear at 50 CFR parts 600 and 679. The FMP and the EFP-implementing regulations at § 600.745(b) and § 679.6 allow the NMFS Regional Administrator to authorize, for limited experimental purposes, fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

Background and Need for Exempted Fishing Permit

As described further below, NMFS has regulatory definitions for a pelagic trawl that specify the allowable numbers of fishing line, footrope, and weighted lines. This regulatory definition limits the ability to test trawl gear redesigns on the footrope and weighted lines.

In 2023, Trident Seafoods began a pilot project aimed at designing modified footrope concepts after consulting with NMFS. This pilot project occurred during the 2023 pollock fishery and underscored the need to expand the pilot project into an EFP. This EFP would help facilitate innovation to reduce impacts to the environment from pelagic trawl fishing and provide transparency in the development of new gear designs. This EFP would build on the 2023 pilot project by expanding testing modified footrope designs during commercial

fishing operations. The primary gear modification involves altering the length and orientation of the existing footrope components in a way that maintains sufficient weight to ensure the proper opening (i.e., shape) of the net, while also resulting in less bottom contact. The re-design of the gear results in having more than two weighted lines, but, due to the design of the modified footrope, results in less total bottom contact. The EFP would assess changes to bottom contact and catch (composition and efficiency), gear performance, and fishing operations and safety.

This requested EFP would temporarily exempt fishers from the regulation at § 679.2 "Authorized fishing gear", paragraph (14)(vii) that states pelagic trawl gear "Has no more than one fishing line and one footrope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle." If approved, this EFP would allow testing of trawl gear design concepts that aim to minimize seafloor contact by the trawl gear when targeting pollock that are on or near the seafloor. The EFP would expire on December 31, 2027.

Exempted Fishing Permit

On September 6, 2024, Dr. Noëlle Yochum and Shannon Carroll of Trident Seafoods submitted an application for an EFP to develop and test modifications to the footrope of pelagic trawl gear. The purpose and goal of this proposed EFP is to assess changes to gear performance, catch composition, fishing operations, safety, and costs.

Vessel operators participating in this project would include trawl vessels that deliver catch to shoreside plants or motherships. All vessels will be equipped for pollock fishing in Alaska and will use pelagic pollock trawls. Gear and fishing operations will be conducted in compliance with current management regulations with the exception of the modifications exempted under the EFP.

Vessel operators would continue to adhere to required monitoring and fishery observer requirements. Vessel operators fishing under the EFP will be responsible for providing information to the EFP applicant about gear performance and use, including areas fished and catch information. Fishing under this EFP will not be conducted within any protected or restricted areas that are otherwise closed to pollock fishing under the American Fisheries Act and Community Development Quota programs under current regulations. This project aims to minimize seafloor contact by the trawl

gear when targeting pollock that are on or near the seafloor.

Exemptions

One exemption is necessary to conduct this project. An exemption would be necessary from the regulation at § 679.2 "Authorized fishing gear", paragraph (14)(vii) that states pelagic trawl gear "Has no more than one fishing line and one footrope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle."

Permit Conditions, Review, and Effects

If issued, the exempted fishing permit would contain several conditions. Among them, the applicant would be required to submit to NMFS an annual report that includes a summary of the vessels participating, any problems and successes, and how well EFP objectives were accomplished. Within 6 months of the end of EFP fishing, a final report would be submitted to NMFS that updates the interim reports and describes how well EFP objectives were accomplished. The Alaska Fisheries Science Center found no concern with the objectives, scope, or methods described in the EFP. The activities that would be conducted under this EFP involve the development and testing of new and modified trawl fishing gear and technology in order to reduce adverse effects from trawl fishing gear on non-target species, and is limited in size, magnitude, and duration with no potential for significant individual or cumulative impacts, as detailed in the draft categorical exclusion for this action (see **ADDRESSES**).

In accordance with §§ 679.6 and 600.745, NMFS has determined that the application warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its October 2024 meeting, which will be held in person in Anchorage, AK with an option to participate virtually. The applicant has been invited to speak in support of the application.

Public Comments

Interested persons may comment on the application during the October 2024 Council meeting during public testimony or the Federal eRulemaking Portal (see **ADDRESSES**) until October 15, 2024, when the comment period ends. Information regarding the meeting is available at the Council's website at <https://www.npfmc.org>. Copies of the application and categorical exclusion are available for review from NMFS (see **ADDRESSES**). Comments may also be

submitted directly to NMFS (see **ADDRESSES**) by the end of the comment period (see **DATES**).

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

Dated: September 24, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–22248 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Conflict of Interest Disclosure for Non-Federal Government Individuals Who Are Candidates To Conduct Peer Reviews Required by the OMB Peer Review Bulletin

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 July 26, 2024, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration, Commerce.

Title: Conflict of Interest Disclosure for Non-Federal Government Individuals Who are Candidates to Conduct Peer Reviews Required by the OMB Peer Review Bulletin.

OMB Control Number: 0648–0567.

Form Number(s): None.

Type of Request: Regular submission [extension of a current information collection].

Number of Respondents: 321.

Average Hours per Response: 30 minutes each: Conflict of Interest Disclosure For General Scientific and Technical Studies and Assistance; and Conflict of Interest Disclosure For Studies Related to Government Regulation.

Total Annual Burden Hours: 161.

Needs and Uses: This request is for extension of a currently approved collection.

The Office of Management and Budget (OMB) issued government-wide guidance to enhance the practice of peer review of government science documents. OMB's Final Information Quality Bulletin for Peer Review ("Peer Review Bulletin" or PRB) (available at https://obamawhitehouse.archives.gov/omb/memoranda_fy2005_m05-03/) establishes minimum peer review standards for influential scientific information that Federal agencies intend to disseminate.

The Peer Review Bulletin also directs Federal agencies to adopt or adapt the National Academy of Sciences (NAS) policy for evaluating conflicts of interest when selecting peer reviewers who are not Federal government employees (federal employees are subject to Federal ethics requirements). For peer review purposes, the term "conflicts of interest" means any financial or other interest which conflicts with the service of the individual because it could: (1) significantly impair the individual's objectivity; or (2) create an unfair competitive advantage for any person or organization. NOAA has adapted the NAS policy and developed two confidential conflict disclosure forms which the agency will use to examine prospective reviewers' potential financial conflicts and other interests that could impair objectivity or create an unfair advantage. One form is for peer reviewers of studies related to government regulation and the other form is for all other influential scientific information subject to the Peer Review Bulletin. In addition, the latter form has been adapted by NOAA's Office of Oceanic and Atmospheric Research for potential reviewers of scientific laboratories.

The forms include questions about employment as well as investment and property interests and research funding. Both forms also require the submission of curriculum vitae. NOAA is seeking to collect this information from potential peer reviewers who are not government employees when conducting a peer review pursuant to the PRB. The information collected in the conflict of interest disclosure is essential to NOAA's compliance with the OMB PRB, and helps to ensure that government studies are reviewed by independent, impartial peer reviewers.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at www.reginfo.gov.

Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and entering either the title of the collection or the OMB Control Number 0648–0567.

Sheleen Dumas,

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

[FR Doc. 2024–22366 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Submission of Conservation Efforts To Make Listings Unnecessary Under the Endangered Species Act

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

ACTION: Notice of information collection, request for comment.

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

DATES: To ensure consideration, comments regarding this proposed extension of an information collection must be received on or before November 29, 2024.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at Adrienne.thomas@noaa.gov. Please reference OMB Control Number 0648–

0466 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or specific questions related to collection activities should be directed to Lisa Manning, Ecologist, National Marine Fisheries Service, 1315 East West Hwy, Bldg. SSMC3, Silver Spring, MD 20910–3282, Phone: 301–427–8466 or Lisa.Manning@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS), Office of Protected Resources, is sponsoring a request for extension of a currently approved information collection.

Under the Endangered Species Act (ESA), determinations whether to list species as endangered or threatened must be based on the best scientific and commercial data available and after taking into account those efforts, if any, being made by any State or foreign nation (or any of their political subdivisions) to protect the particular species. On March 28, 2003, NMFS and the U.S. Fish and Wildlife Service (the “Services”) announced a final policy on the criteria the Services will use to evaluate certain conservation efforts by States, Tribes, and other non-Federal entities when making listing determinations under the ESA (68 FR 15100). The conservation efforts usually involve the development of a conservation plan or agreement, procedures for monitoring the effectiveness of the plan or agreement, and an annual report.

II. Method of Collection

NMFS does not require, but does accept, conservation plans and reports electronically. NMFS has not developed a form to be used for submission of plans or reports. In the past, NMFS has made plans and annual reports from States available through the internet and plans to continue this practice.

III. Data

OMB Control Number: 0648–0466.

Form Number(s): None.

Type of Review: Regular submission (extension of a currently approved information collection).

Affected Public: Business or other for-profit organizations; State, Local or Tribal Governments.

Estimated Number of Respondents: 1.

Estimated Time per Response: 2,500 hours to complete each agreement or plan that has the intention of making listing unnecessary; 320 hours to

conduct monitoring for successful agreements; and 80 hours to prepare a report for successful agreements.

Estimated Total Annual Burden Hours: 2,900.

Estimated Total Annual Cost to Public: \$100.

Respondent's Obligation: Voluntary.

Legal Authority: ESA (16 U.S.C. 1533).

IV. Request for Comments

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

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this information collection request. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

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

[FR Doc. 2024–22370 Filed 9–27–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XE199]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to Hilcorp Alaska, LLC Production Drilling Support in Cook Inlet, Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to Hilcorp Alaska, LLC (Hilcorp) to incidentally harass marine mammals during production drilling support activities in Cook Inlet, Alaska.

DATES: This authorization is effective from September 24, 2024 through September 23, 2025.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas>. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT:

Reny Tyson Moore, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as

“mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On August 2, 2023, NMFS received a request from Hilcorp for an IHA to take marine mammals incidental to production drilling support activities in Cook Inlet, Alaska. Following NMFS' review of the application, Hilcorp submitted revised versions on September 29, 2023, December 27, 2023, February 29, 2024, and April 8, 2024. The application was deemed adequate and complete on April 12, 2024, and the notice for the proposed IHA was published in the **Federal Register** on July 24, 2024 (89 FR 60164). Hilcorp's request is for take of 12 species of marine mammals, by Level B harassment. Neither Hilcorp nor NMFS expect serious injury or mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued two consecutive IHAs to Hilcorp for similar work (87 FR 62364, October 1, 2022). Hilcorp complied with all the requirements (*e.g.*, mitigation, monitoring, and reporting) of the previous IHAs, and information regarding their monitoring results may be found in the Potential Effects of Specified Activities on Marine Mammals and their Habitat section of this notice.

There are no changes from the proposed IHA to the final IHA other than the addition of some clarifying language and some minor typographical corrections.

Description of Specified Activity

Hilcorp plans to use three tug boats to tow and hold, and up to four tug boats to position, a jack-up rig to support production drilling at existing platforms on 6 non-consecutive days during a 1-year period, in middle Cook Inlet and Trading Bay Alaska. Tug activities will include one demobilization effort of a jack-up rig (Spartan 151 or equivalent rig) from an existing platform to Rig Tenders Dock in Nikiski, one jack-up rig relocation between existing platforms, and one remobilization effort of the jack-up rig from Rig Tenders Dock in Nikiski to middle Cook Inlet. Noise produced by tugs under load with a jack-up rig may result in take, by Level B harassment, of 12 marine mammal species. References to tugging activities herein refer to activities where tugs are under load with the rig (*i.e.*, tugs

towing, holding, and or positioning a jack-up rig).

A detailed description of the planned tugging activities is provided in the **Federal Register** notice for the proposed IHA (89 FR 60164, July 24, 2024). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to Hilcorp was published in the **Federal Register** on July 24, 2024 (89 FR 60164). That notice described, in detail, Hilcorp's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments.

During the 30-day public comment period, NMFS received comments from Hilcorp, the Center for Biological Diversity (CBD), and Cook Inletkeeper. All relevant, substantive comments, and NMFS' responses, are provided below and are organized by topic. The comments and recommendations are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-construction-activities>. Please see the comment submissions for full details regarding the recommendations and supporting rationale.

Comment 1: Hilcorp requests that NMFS provide context for the term “serious” as used in the description of effects that temporary threshold shifts (TTS) can have on marine mammals included in the **Federal Register** notice for the proposed IHA (89 FR 60164, July 24, 2024) and/or edit for better accuracy.

Response: NMFS reviewed the referenced text provided in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat of the notice of proposed IHA, which is referenced in this notice. We determined the discussion was sufficiently clear as originally written.

Comment 2: Hilcorp requests that NMFS clarify that NMFS has found permanent threshold shifts (PTS) to not be likely based on the modeling results provided in the **Federal Register** notice for the proposed IHA (89 FR 60164, July 24, 2024).

Response: NMFS concurs that PTS resulting from Hilcorp's tugging activities is unlikely. As described in the **Federal Register** notice for the proposed IHA (89 FR 60164, July 24, 2024), Hilcorp contracted SLR Consulting to model the extent of the harassment isopleths for tugs under load with a jack-up rig during their planned activities. The modeling efforts used detailed propagation calculations that accounted for local bathymetry and specific sound source locations and frequency-dependent propagation effects in an attempt to improve the representation of the influence of relevant environmental variables on the propagation of sound from Hilcorp's planned activities. The results of these modeling efforts estimated distances to PTS thresholds under the mobile tug scenarios that are smaller than the overall size of the tug and rig configuration (*i.e.*, less than or equal to 8 meters (m)), making it unlikely an animal would remain close enough to the tug engines to incur PTS. For stationary positioning of the jack up rig, the PTS isopleths for both the 3-tug and 4-tug scenarios were estimated to be up to 749 m for high frequency (HF) cetaceans and up to 102 m for all other species, but calculated on the assumption that an animal would remain within several hundred meters of the jack-up rig for the full 5 hours of noise-producing activity. Given the location of the activity is not in an area known to be essential habitat for any marine mammal species with extreme site fidelity, in addition to the mobile nature of marine mammals and the likelihood of avoidance, NMFS concurs that the occurrence of PTS is unlikely and thus, Level A harassment was not proposed or authorized for any species.

Comment 3: Hilcorp requests that NMFS clarify that the required mitigation measures will reduce Level B harassment as well as the already insignificant potential for Level A harassment as a result of the specified activity.

Response: As described in NMFS' response to Comment 2, there is a discountable potential for marine mammals to incur PTS from the project. Source levels from Hilcorp's tugging activities are anticipated to be relatively low, non-impulsive, and animals would have to remain at very close distances for multiple hours to accumulate acoustic energy at levels that could damage hearing. We agree that mitigation measures required by NMFS are expected to be effective in further reducing the potential for Level A and Level B harassment and minimizing impacts of the specified activity. These

measures include the employment of multiple protected species observers (PSOs), vessel maneuvering restrictions, pre-clearance monitoring prior to commencing activities (which includes a measure that Hilcorp must delay any tugging activities should Cook Inlet beluga whales (CIBWs) be observed at any distance or if other marine mammals are observed within a 1.5 kilometer (km) clearance zone) as well as a requirement that Hilcorp must conduct tugging activities with a favorable tide to reduce noise output. These required measures should reduce any effects of the specified activity on marine mammals by minimizing the numbers of marine mammals exposed to sound and by minimizing the intensity of any exposures. Please see the Mitigation section of this notice for a full description of the required mitigation measures.

Comment 4: Hilcorp notes that some of the densities reported in the **Federal Register** notice for the proposed IHA (89 FR 60164, July 24, 2024) did not match those included in the Hilcorp application.

Response: Hilcorp correctly identified a typo in table 10 of the notice of proposed IHA (89 FR 60164, July 24, 2024) regarding the density of minke whales. The table included a density of 0.0004 individuals per kilometers squared (km²), whereas Hilcorp's application included a density of 0.00003 individuals per km². That table (table 9 in this notice) has been corrected to include the correct density estimate of 0.00003 individuals per km² for this species.

Hilcorp also commented that the density value for CIBWs based on MML annual surveys for the entire Cook Inlet reported in table 10 in the notice for the proposed IHA (89 FR 60164, July 24, 2024) (*i.e.*, 0.07166 individuals per km²) does not align with other numbers provided in that table for CIBWs. This value was calculated as the average density of CIBWs in the entire Cook Inlet from 2000 through 2022 as indicated by table 16 in Hilcorp's application and is included in table 9 of this notice.

Comment 5: Hilcorp requests that NMFS specify that Hilcorp's activity will not cause repeated, sequential exposure or repetitious sounds. They also state that the best available information shows no potential for any population level impacts.

Response: As described in the Negligible Impact Analysis and Determination section of the notice for the proposed IHA (89 FR 60164, July 24, 2024) and this notice, we describe how repeated, sequential exposure to

elevated noise or repetitious sounds from tugs under load with a jack-up rig over a long duration could result in more significant impacts to individuals that could affect a population (via sustained or repeated disruption of important behaviors such as feeding, resting, traveling, and socializing; Southall *et al.*, 2007). It is unlikely that any individual would be exposed to repeated, sequential exposures or repetitious sounds from Hilcorp's activities given the short duration of Hilcorp's tugging activities (*i.e.*, 6 non-consecutive days over a 1-year period), and the low densities of marine mammals in the planned action area (see tables 10 in the notice for the proposed IHA (89 FR 60164, July 24, 2024) and table 9 in this notice). However, the potential for some repeat, sequential exposure or repetitious sounds from Hilcorp's tugging activities, though limited, does exist given that NMFS does not know with certainty that any individuals would not be exposed to Hilcorp's activity more than once.

Despite the small potential for limited repeated, sequential exposure or repetitive sounds from Hilcorp's tugging activities, NMFS concurs with Hilcorp that the best available science supports the notion that exposure to tugging activities would not have impacts on the fitness or reproductive success of any individual marine mammals, much less population level impacts. Marine mammals, including CIBWs, frequent and use Cook Inlet despite being exposed to anthropogenic sounds such as those produced by tug boats and other vessels across many years. The absence of any pinniped haul outs or other known home-ranges in the planned action area further decreases the likelihood of any population level impacts. As described in the Description of Sound Sources for the Specified Activities section of the notice for the proposed IHA (89 FR 60164, July 24, 2024), while marine mammals may be present in low numbers during Hilcorp's tugging activities, most individuals, including CIBWs, are anticipated to be transiting through the area, limiting exposure duration. CIBWs in the area are expected to be headed to or from the concentrated foraging areas farther north near the Beluga River, Susitna Delta, and Knik and Turnigan Arms. Similarly, humpback whales (*Megaptera novaengliae*), fin whales (*Balaenoptera physalus*), minke whales (*Balaenoptera acutorostrata*), gray whales (*Eschrichtius robustus*), killer whales (*Orcinus orca*), California sea lion (*Zalophus californianus*), and

Steller sea lions (*Eumetopias jubatus*) are not expected to remain in the area of the tugs. Dall's porpoise (*Phocoenoides dalli*), harbor porpoise (*Phocoena phocoena*), and harbor seal (*Phoca vitulina*) have been sighted with more regularity than many other species during oil and gas activities in Cook Inlet, but due to the transitory nature of these species, they are unlikely to remain close to a tug under load for the full duration of the noise-producing activity. Further, previous observations of marine mammals sighted near Hilcorp's planned activities have shown little to no observable reactions to tugs under load with a jack-up rig (*e.g.*, Horsley and Larson, 2023).

Lastly, no serious injury or mortality is anticipated to result from this activity. Take by Level A harassment (injury) is considered unlikely and is not authorized because of the small estimated Level A harassment zones resulting from tugs under load with a jack-up rig (*i.e.*, ≤8 m during mobile tugging activities and ≤749 m for stationary tugging activities), the mobile nature of both the activity itself and marine mammals in the project area, and the required mitigation and monitoring program. Any take that may potentially occur would be in the form of Level B harassment, likely in the form of avoidance of the vessels and the noise they produce. Please see the Negligible Impact Analysis and Determination section of the notice for the proposed IHA (89 FR 60164, July 24, 2024) and this notice for more detailed information regarding why population level impacts resulting from the additional noise produced by tugs under load with a jack-up rig are not anticipated.

Comment 6: Hilcorp suggests that because the MMPA requires NMFS to use the "best scientific information available", NMFS should use the CIBW abundance estimate of 331 from Goetz *et al.* (2003) as described in the footnote of table 12 of the **Federal Register** notice for the proposed IHA (89 FR 60164, July 24, 2024) rather than 271 from the most recent Stock Assessment Report (Young *et al.*, 2023) when considering the percentage of the stock proposed to be authorized for taking.

Response: As noted by Hilcorp, the abundance estimate provided by Goetz *et al.* (2023) is the most recent CIBW abundance estimate available. Footnotes 8 and 4 in tables 2 and 12, respectively, of the notice of the proposed IHA (and table 1 and table 11 in this notice) also state that "in accordance with the MMPA, this population estimate will be incorporated into the CIBW SAR, which will be reviewed by an independent

panel of experts, the Alaska Scientific Review Group. After this review, the SAR will be made available as a draft for public review before being finalized.” Even when more recent abundance estimates are available, NMFS typically considers abundance estimates from the SARs to be the best available given the rigorous SAR review process. However, in this case, regardless of whether the number of instances of takes is compared to the abundance estimate in the current CIBW SAR or the Goetz *et al.* (2023) abundance estimate, the number of instances of take as a percent of the stock abundance is less than 6 percent and is considered to be small numbers even if each instance of take represents a different CIBW.

Comment 7: Hilcorp requests that NMFS delete the requirement of the proposed IHA that they must monitor the project area to the maximum extent possible based on the required number of PSOs, required monitoring locations, and environmental conditions. They state that Hilcorp is not required to “monitor the project area to the maximum extent possible,” but rather is required to monitor certain zones, according to the terms of the IHA.

Response: NMFS has revised the IHA to make clear that the requirement to “monitor the project area to the maximum extent possible” does not refer to mitigation clearance zones but is rather a monitoring requirement that applies once operations commence. Specifically, we moved that requirement, which Hilcorp included in its application, to item 5(a) of the IHA, which addresses monitoring requirements during tug operations (in acknowledgement of the fact that Hilcorp will not be able to shut down activities once the tugs are under-load with the jack-up rig). We have also clarified in the final IHA that the maximum extent possible is the maximum distance possible.

The monitoring requirement during operations is distinguished from the mitigation-related pre-clearance zones identified in item 4 of the IHA, which identifies the clearance zones that must be monitored as part of a pre-operational mitigation requirement. See the Mitigation section of this final notice for additional details.

Comment 8: Hilcorp requests that NMFS delete and/or modify language that describes NMFS’ purpose and alternatives considered in the agency’s Environmental Assessment (EA). Specifically they state that language included in the draft EA incorrectly states NMFS’ purpose, and that NMFS does not have the authority to require Hilcorp to use alternative technologies.

Response: NMFS believes the referenced paragraph regarding NMFS’ purpose in the EA appropriately describes our intent (which includes evaluating the information in Hilcorp’s application). Therefore, NMFS has not deleted the referenced text as requested by Hilcorp. NMFS has revised the language referring to alternatives considered but eliminated from further consideration to clarify that NMFS does not have authority under the MMPA to prescribe that an applicant use alternative technologies to accomplish their objectives (*i.e.*, an IHA does not authorize an activity, rather take of marine mammals incidental to an activity).

Comment 9: CBD states that NMFS failed to seriously evaluate the assertion that noise from tugboats is the highest noise threat to CIBWs according to NMFS’ Recovery Plan for CIBWs (NMFS, 2016).

Response: NMFS’ Recovery Plan (NMFS, 2016) ranks noise from tugboats as the most important source that could potentially interfere with CIBW recovery based on signal characteristics and spatio-temporal acoustic footprint. Specifically, NMFS (2016) identified propeller cavitation (the formation of bubbles in a liquid) and engine noise including azimuth/bow thruster noise from tug boats as concerning. However, notably, the Recovery Plan is referencing tugboat noise as a whole across all vessels and the entirety of Cook Inlet, not Hilcorp’s specified activity in the specified location and geographic region, which is likely a small portion of overall tugboat use in Cook Inlet throughout the year. The NMFS Alaska Regional Office (AKRO) issued a Biological Opinion on September 4, 2024, under section 7 of the Endangered Species Act (ESA), on the issuance of an IHA to Hilcorp under section 101(a)(5)(D) of the MMPA by the NMFS Office of Protected Resources, which addressed the impacts of the CIBW take NMFS is authorizing in the context of both the environmental baseline and the cumulative effects (including tugboats) and found that it is not likely to jeopardize the continued existence of CIBWs or to destroy or adversely modify their designated Critical Habitat.

NMFS acknowledges that the sounds produced by Hilcorp’s tugging activities may potentially result in take, by Level B harassment (behavioral disturbance), of some marine mammals, most likely in the form of avoidance of the vessels and the noise they produce. As described in the Estimated Take section of the notice for the proposed IHA (89 FR 60164, July 24, 2024) and this notice, the sound

source levels of tugging activities range widely according to the level of operational effort, with full power output and higher speeds generating more propeller cavitation and hence greater sound source levels than lower power output and lower speeds. As such, Hilcorp will implement mitigation measures intended to reduce the sound source levels from the tugs under load. First, the IHA requires that Hilcorp must conduct tug towing rig operations with a favorable tide unless human safety or equipment integrity are at risk. This is in an effort to reduce the operational effort of the tugs under load and to minimize source levels from Hilcorp’s activities. Further, Hilcorp will only use bow thrusters occasionally for a short duration (20 to 30 seconds) to either push or pull a vessel in or away from a dock or platform, and the total tugging activities will be limited to (at most) 6 days of operations out to an estimated maximum distance of 4,453 m around the noise source. Last, the IHA prohibits Hilcorp from initiating tugging activities if a CIBW is observed at any distance within the pre-clearance monitoring period. If a CIBW(s) is observed during those 30 minutes, operations may not commence until the CIBW(s) is no longer detected at any range or 30 minutes have elapsed without any observations of CIBWs. Therefore, NMFS anticipates that Hilcorp would not initiate a tow (which would include the use of bow thrusters) if a CIBW is within the portion of the Level B harassment zone that is closer to the activity, and thus more likely to disturb a CIBW. Lastly, it is important to note that there are multiple contextual factors (including the signal characteristics and the spatio-temporal (space and time) acoustic footprint of Hilcorp’s activity as well as bearing and distance, predictability of source movement, and likelihood of habituation to routine vessel traffic) that minimize this potential and the likelihood of behavioral disturbance even if a marine mammal is exposed above the Level B harassment threshold. Based on this analysis, NMFS has made the determinations required by the MMPA and authorized take accordingly.

Comment 10: CBD asserts that NMFS should defer issuance of incidental take of CIBWs unless and until NMFS has a better understanding of the reasons the species is failing to recover. They state that until it does so, NMFS has no rational basis for concluding that any amount of take constitutes a “negligible impact” to the species. Cook Inletkeeper also comments that NMFS should not authorize any take of CIBWs due to

uncertainty regarding trends in their population and the impacts that anthropogenic noise may have on this species.

Response: NMFS shares the commenter's concern regarding the impacts of human activities on CIBWs and is committed to supporting the conservation and recovery of the species. Under section 101(a)(5)(D) of the MMPA, NMFS considers the at-risk status of CIBWs (and other species) in both the negligible impact analysis and through our consideration of impact minimization measures that support the least practicable adverse impact on those species. For example, the IHA includes a requirement for Hilcorp to delay the commencement of tugging activities should CIBWs be observed at any distance during the pre-clearance monitoring period and requires that tug operations occur with favorable tides. However, section 101(a)(5)(D) also mandates that NMFS "shall issue" an IHA, provided the necessary findings are made for the specified activity for which incidental take is requested.

In accordance with our implementing regulations at 50 CFR 216.104(c), we use the best available scientific evidence to determine whether the taking by the specified activity within the specified geographic region will have a negligible impact on the species or stock and will not have an unmitigable adverse impact on the availability of such species or stock for subsistence uses. Based on the scientific evidence available, NMFS determined that the take, by Level B harassment only, incidental to Hilcorp's tugging of the jack-up rig, which is primarily acoustic in nature, transient, and of a low level, would have a negligible impact on CIBWs. Moreover, Hilcorp proposed and NMFS has required in the IHA a rigorous mitigation plan to further reduce potential impacts to CIBWs (and other marine mammal species/stocks) to the lowest level practicable. Additionally, the ESA Biological Opinion determined that the issuance of the IHA is not likely to jeopardize the continued existence of CIBWs, the Mexico Distinct Population Segment (DPS) of humpback whales, the Western DPS of Steller sea lions, and the Northeast Pacific stock of fin whales, or to destroy or adversely modify CIBW critical habitat. The Biological Opinion also outlined Terms and Conditions and Reasonable and Prudent Measures to reduce impacts, which have been incorporated into the IHA. Therefore, based on the analysis of potential effects, the parameters of the activity, and the rigorous mitigation and monitoring program, NMFS determined that the taking from the specified

activity would have a negligible impact on the CIBW stock.

Cook Inletkeeper stated that recent changes in survey methods calls into question the reliability of using the most recent aerial survey data to identify trends in population status, and that based upon this potential uncertainty and the impact that anthropogenic noise may have on this species, NMFS should not authorize any take of CIBWs. Cook Inletkeeper is incorrect in that survey methods for detecting trends in CIBW population have changed; the survey field methods are essentially unchanged since 2004 (Paul Wade, personal communication, December 11, 2023). The analysis methods used to detect trends in the CIBW population have been updated and implemented in recent studies examining the CIBW population, notably Sheldon and Wade (2019) and Goetz *et al.* (2023).

Results of recent studies provide evidence that the CIBW population increased between 2004 and 2010, declined after 2010, and increased again from 2016 to 2022 (Jacobsen *et al.*, 2020; Sheldon and Wade, 2019; Warlick *et al.*, 2023; Goetz *et al.*, 2023). While there is some uncertainty around CIBW population trend analyses, the results of these four studies are consistent in showing general trends. Thus, while Cook Inletkeeper is correct that some studies confirm a declining trend in CIBW abundance, recent studies, which NMFS considers the best scientific information available, suggest the population may now be increasing (see Goetz *et al.*, 2023). Additional data in the coming years will help to inform whether the recent positive trend in the CIBW population will continue.

Beyond the requirements in this IHA to minimize the impact of any taking from Hilcorp's activity, NMFS is taking several proactive steps to help protect and better understand the species. For example, NMFS is supporting the development of a population consequences of disturbance (PCoD) model, currently being developed by NMFS researchers, to quantitatively assess the degree to which anthropogenic disturbance, and in particular noise, may impact survival and reproduction of CIBWs. Results of Phase 1 of the model were published in 2023 (McHuron *et al.*, 2023) and the Phase 2 analysis is underway. NMFS also continues to conduct outreach and education to various stakeholders to minimize the potential for unauthorized take of CIBWs. NMFS also issued Cook Inlet and Kodiak Marine Mammal Disaster Response Guidelines in 2019 (NMFS, 2019b) and a stranding response plan specific to CIBWs in 2009 (NMFS,

2009), which could inform responses and further reduce impacts to CIBWs. NMFS initiated efforts to update the 2009 stranding response plan in 2021, and those efforts are ongoing. For more information, see NMFS' 5-year Priority Action Plan (2021–2025) for CIBWs as part of its Species in the Spotlight initiative to provide immediate, targeted efforts to halt declines and stabilize populations of the species most at-risk of extinction in the near future (see <https://www.fisheries.noaa.gov/resource/document/species-spotlight-priority-actions-2021-2025-cook-inlet-beluga-whale>).

Comment 11: CBD and Cook Inletkeeper comment that NMFS cannot issue "Renewed" IHAs under the MMPA. CBD further comments that NMFS cannot issue "successive" IHAs without a comprehensive analysis and must analyze and mitigate the total take it is proposing to authorize across all two years. CBD states that the 15-day comment period proposed for renewals is also unlawful and places a burden on interested members of the public to review not only the original authorization and supporting documents but also the draft monitoring reports, the renewal request, and the proposed renewed authorization and then to formulate comments, all within 15 calendar days. They assert that NMFS should set forth, via proposed regulation or policy document, its rationale for the Renewal process and to allow public comment.

Response: The process of issuing a renewal IHA does not bypass the public notice and comment requirements of the MMPA. The notice of the proposed IHA initiated a 30-day public comment period and expressly notifies the public that under certain, limited conditions an applicant could seek a renewal IHA for an additional year. The notice describes the conditions under which such a renewal request could be considered and expressly seeks public comment in the event such a renewal is sought. Importantly, any such renewals (if issued) would be limited to where the activities are identical or nearly identical to those analyzed in the proposed IHA, monitoring does not indicate impacts that were not previously analyzed and authorized, and the mitigation and monitoring requirements remain the same, all of which allow the public to comment on the appropriateness and effects of a renewal at the same time the public provides comments on the initial IHA.

Importantly, renewal IHAs are evaluated by NMFS on a case-by-case basis and are not an automatic matter of right. Each 1-year IHA must

independently satisfy the negligible impact standard for the authorized taking and include the means of effecting the least practicable adverse impact on the species or stock and its habitat and, where relevant, on the availability of such species or stock for taking for subsistence uses (*i.e.*, mitigation). Moreover, NMFS is not proposing to issue a “successive” IHA for a second year. For these reasons a comprehensive analysis of the impacts of potential take across two years is not appropriate under the MMPA. Any renewal request would be evaluated under the appropriate statutes (*e.g.*, MMPA, National Environmental Policy Act (EPA), and ESA) for compliance with relevant standards. These analyses would consider the environmental baseline at that time, including any impacts of the IHA we have issued.

Should a renewal request be made, additional documentation would be required from Hilcorp that NMFS would make publicly available and would use to verify that the activities are identical to those in the initial IHA, are nearly identical such that the changes would have either no effect on impacts to marine mammals or decrease those impacts, or are a subset of activities already analyzed and authorized but not completed under the initial IHA. NMFS would also confirm, among other things, that the activities would occur in the same location; involve the same species and stocks; provide for continuation of the same mitigation, monitoring, and reporting requirements; and that no new information had been received that would alter the prior analysis. If new information has been received that would alter the prior analysis, that information would be analyzed in the notice of the proposed renewal IHA. A renewal request would also contain a preliminary monitoring report, specifically to verify that effects from the activities do not indicate impacts of a scale or nature not previously analyzed. Any renewal request is subject to an additional 15-day public comment period that provides the public an opportunity to review these few documents, provide any additional pertinent information and comment on whether they think the criteria for a renewal have been met. Between the initial 30-day comment period on these same activities and the additional 15 days, the total comment period for a Renewal is 45 days.

In addition to the IHA renewal process being consistent with all requirements under section 101(a)(5)(D), it is also consistent with Congress’ intent for issuance of IHAs to the extent reflected in statements in the legislative

history of the MMPA. Through the provision for renewals in the implementing regulations, description of the process and express invitation to comment on specific potential renewals in the Request for Public Comments section of each proposed IHA, the description of the process on NMFS’ website, further elaboration on the process through responses to comments such as these, posting of substantive documents on the agency’s website, and provision of 30 or 45 days for public review and comment on all proposed initial IHAs and renewals respectively, NMFS has ensured that the public has full opportunity to meaningfully participate in the agency’s decision-making process.

Comment 12: CBD states that NMFS’ small numbers determination is arbitrary, unlawful, unreasonable, and improper. They comment that NMFS’ determination is based on a patently unlawful interpretation of what constitutes a small number and fails to consider that even a relatively small number of takes of critical endangered CIBWs can be more than small considering the species’ highly imperiled status.

In support of NMFS’ small numbers determination, Hilcorp recommends that NMFS expressly reference the **Federal Register** notice where the standard for small numbers is identified and fully explained, include that reference in the record, and summarize that explanation in this final notice of IHA issuance. They also request that NMFS clearly express its finding that the proposed incidental harassment levels constitutes a “small number” for each marine mammal stock, independent of NMFS’s “one-third” standard.

Response: Our notice of the proposed IHA referenced an earlier rulemaking in which we provided a full explanation of the agency’s interpretation of “small numbers.” (86 FR 5322, 5438, January 19, 2021). NMFS makes its small numbers findings based on an analysis of whether the number of individuals authorized to be taken annually from a specified activity is small relative to the stock or population size. This relative approach is consistent with the statement from the legislative history that “[small numbers] is not capable of being expressed in absolute numerical limits” (H.R. Rep. No. 97–228, at 19 (September 16, 1981)), and relevant case law (*Center for Biological Diversity v. Salazar*, 695 F.3d 893, 907 (9th Cir. 2012) (holding that the U.S. Fish and Wildlife Service reasonably interpreted “small numbers” by analyzing take in relative or proportional terms)). Using

such a simple approach that establishes equal bins corresponding to small, medium, and large proportions of the population abundance, when the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. (86 FR 5322, 5438, January 19, 2021).

As described in the Small Numbers section of the **Federal Register** notice of the proposed IHA (89 FR 60164, July 24, 2024) and this notice of issuance, NMFS is authorizing take of less than 2 percent for all stocks, except for CIBWs whose authorized take is 5.38 percent of the stock; see tables 12 and 11 in the notice for the proposed IHA (89 FR 60164, July 24, 2024) and this notice, respectively). Here, NMFS finds the taking of 5.38 percent of CIBWs, and 2 percent of other 14 other stocks of marine mammals constitutes small numbers of marine mammals taken relative to the population size of the affected species or stocks. As Hilcorp’s comment letter points out, these percentages also fall under the amount upheld as small numbers by the U.S. District Court for the District of Alaska in *Native Village of Chickaloon v. NMFS*, 947 F. Supp. 2d 1031 (D. Alaska 2013) (concluding that NMFS’ authorization of 10 percent of CIBWs constituted small numbers relative to the affected population size). This is well below NMFS’ upper limit of one-third as described above. Further, using the take numbers (which actually represent instances of take) to compare to the population abundance conservatively assumes (for small numbers purposes) that each take represents a different individual (rather than a few individuals experiencing multiple instances of take). Therefore, NMFS has deemed the taking to be of small numbers of marine mammals (relative to the relevant species or stock abundances).

Finally, we disagree with CBD’s assertion that NMFS’ small number determination for CIBWs should consider the highly imperiled status of the species. The argument to establish a small numbers threshold on the basis of stock-specific context is unnecessarily duplicative of the required negligible impact finding, in which relevant biological and contextual factors are considered in conjunction with the amount of take, and would risk conflating the two standards. See *Ctr. for Biological Diversity v. Salazar*, 695 F.3d at 907 (cautioning the U.S. Fish and Wildlife Service to “keep[] the standards distinct”).

Comment 13: CBD comments that NMFS’ negligible impact determination is improper and arbitrary. They state

that it overlooks that CIBWs are among the most highly endangered animals under the agency's jurisdiction to protect. They state that NMFS has no rational basis for concluding that additional harassment by noise has a negligible impact on the species.

Response: NMFS disagrees with the comment. In the Negligible Impact Analysis and Determination section of the notice of the proposed IHA (89 FR 60164, July 24, 2024) and again in this notice, we describe how the take estimated and authorized for Hilcorp's tugging activity will have a negligible impact on all of the affected species or stocks, including CIBWs. We discuss how this determination is based upon, among other things, the low number of takes of each stock that might be exposed briefly during 6 days of activity over the course of the 1-year IHA, the comparatively low level of behavioral harassment that might result from an instance of take that could occur within that year, and the likelihood that the mitigation measures required further lessen the likelihood, magnitude, or severity of exposures. NMFS also considered the status of each stock in its analysis.

NMFS' negligible impact finding considers a number of parameters including, but not limited to, the nature of the activities (e.g., duration, sound source), effects/intensity of the taking, the context of takes, and mitigation. For CIBWs, NMFS considered data from previous similar tugging activities. Hilcorp's most recent annual marine mammal monitoring report indicates that it did not record any sightings of CIBWs from their rig-based monitoring efforts (Horsley and Larson, 2023), and the most recent monthly monitoring report that describes monitoring results from the May 2024 rig transiting also indicates no recorded sightings of CIBWs during transit (Weston Solutions, 2024). Any disturbance that may occur is anticipated to be limited to behavioral changes such as increased swim speeds, changes in diving and surfacing behaviors, and alterations to communication signals, not the loss of foraging capabilities or the abandonment of critical habitat. Given these anticipated impacts, none of which would be expected to impact the fitness or reproduction of any individual marine mammals, much less adversely impact annual rates of recruitment or survival of CIBWs, NMFS' independent evaluation of the best scientific evidence in this case supports our negligible impact determination. Further, the ESA Biological Opinion concluded that the proposed action is not likely to

jeopardize the continued existence of CIBWs or to destroy or adversely modify designated CIBW critical habitat.

Comment 14: CBD asserts that NMFS discounts the best available science for CIBWs. CBD claims that NMFS incorrectly stated that CIBWs are not known to engage in critical behaviors in the area where Hilcorp's project is planned.

Response: NMFS acknowledges observation of two potential but unconfirmed incidences of mating behavior in the Trading Bay area in 2014, but the extent to which critical behaviors occur in Hilcorp's project area is still unknown (Lomac-Macnair *et al.*, 2016). Such behaviors have not been reported since. Surveys by NMFS or McGuire *et al.* (2020) with concentrated effort on the western coast of Cook Inlet have not yielded a comparable sighting. Other key behaviors, such as calving and feeding, are described in more detail below but are thought to occur primarily in other concentrated areas outside of Hilcorp's action area.

We are unaware of any information regarding areas where CIBWs are more likely to engage in mating behavior, however, what is known about calving suggests that it is most concentrated in the upper Inlet, north of Hilcorp's project area. McGuire *et al.* (2020) characterizes habitat use by age class in northern Cook Inlet and documented the majority of calves in the northernmost parts of Cook Inlet (e.g., Susitna Delta) despite concentrated survey effort in areas along the west part of the Inlet heading south toward the Forelands. NMFS acknowledges that CIBWs use the area, especially in spring and fall months, but their habitat range at those times is not nearly as constricted as their summer habitat, which is concentrated in a small area with high anthropogenic activity.

CIBWs may well occur in the project area, which is why a small amount of take by Level B harassment is authorized for this species incidental to Hilcorp's jack-up rig towing. Tagging data, acoustic studies, and opportunistic sightings indicate that CIBWs continue to occur in the upper inlet throughout the winter months, in particular the coastal areas from Trading Bay to Little Susitna River, with foraging behavior detected in lower Knik Arm and Chickaloon Bay, and also detected in several areas of the lower inlet such as the Kenai River, Tuxedni Bay, Big River, and NW Kalgin Island (e.g., Castellote *et al.*, 2020, 2021; C. Garner, pers. comm.; Sheldon *et al.*, 2015a, 2018). CIBWs were historically seen in and around the Kenai and Kasilof rivers during June aerial surveys conducted by ADFG in

the late 1970s and early 1980s and by NMFS starting in 1993 (Sheldon *et al.*, 2015b), and throughout the summer by other researchers and local observers. In recent years, sightings in and near these rivers have been more typical in the spring and fall (Ovitz, 2019). It is unknown if this is due to increased monitoring efforts in the area or an increase in CIBWs using this area. While visual sightings indicate peaks in spring and fall, acoustic detections indicate that CIBWs can be present in the Kenai River throughout the winter (Castellote *et al.*, 2016). Despite the historic sightings (1970s–1990s) of CIBWs throughout the summer (June–August) in the area, recent acoustic detections and visual sightings indicate that there appears to be a steep decline in CIBWs presence in the Kenai River during the summer, despite an annual return in recent years of 1–1.8 million sockeye salmon, which are important CIBW prey. Further, while feeding behaviors may occur in Hilcorp's project area, there are no known foraging hot spots near the project area. CIBWs are expected to be transiting through the area, headed to or from the concentrated foraging areas farther north near the Beluga River, Susitna Delta, and Knik and Turnigan Arms. Therefore, any exposures are likely to be limited in duration during the 6 days of tugging activity and would take place in a small portion of available foraging habitat. Any impacts on feeding are expected to be minimal.

As described above, we have no reason to expect CIBWs to be concentrated in the path of Hilcorp's tug boats for the purposes of reproductive or feeding behaviors, but even if one or more of the 15 instances in which noise from tugboat operations briefly intersects with an individual CIBW engaged in these behaviors, the anticipated short duration and low level disturbance of any such encounter would not be likely to impact reproductive or foraging success of any individuals.

The commenter further asserts that NMFS' negligible impact conclusion is particularly arbitrary considering the project will occur within a year-round Biologically Important Area (BIA) for CIBWs and also in CIBW critical habitat. While exposure to elevated noise levels associated with Hilcorp's activities may result in low-level behavioral changes in marine mammals, NMFS' review of the best available scientific evidence, as summarized and cited herein, demonstrates that these responses do not rise to the level of having adverse effects on the reproduction or survival of any marine mammals, much less on

rates of recruitment or survival of any species or stock, and the commenter has provided no evidence to the contrary. Further, while Hilcorp's project area does overlap ESA-designated critical habitat for CIBWs and the CIBW small and resident BIA (Wild *et al.*, 2023), the impacts from the project are not expected to occur in areas that are specifically important for feeding or reproduction for any species, including CIBWs, nor are they anticipated to result in a loss of prey or habitat. Monitoring data from Hilcorp's past activities suggest that tugging activities do not discourage CIBWs from transiting throughout Cook Inlet and between critical habitat areas and that the whales do not abandon critical habitat areas (Horsley and Larson, 2023). In addition, large numbers of CIBWs have continued to use Cook Inlet and pass through the area, likely traveling to critical foraging grounds found in upper Cook Inlet (*i.e.*, outside of the project area), while noise-producing anthropogenic activities, including vessel use, have taken place during the past two decades (*e.g.*, Shelden *et al.*, 2013, 2015b, 2017, 2022; Shelden and Wade, 2019; Geotz *et al.*, 2023).

Comment 15: CBD asserts that NMFS negligible impact determination for all species relies on mitigation measures that rely nearly exclusively on visual monitoring measures that it claims are "known to be ineffective and inadequate" to protect marine mammals.

Response: NMFS disagrees with the comment. Our discussion in the Negligible Impact Analysis and Determination section below contains the factors NMFS considered in reaching its negligible impact determinations. Although NMFS' implementing regulations at 50 CFR 216.104(c) state that NMFS may incorporate successful implementation of mitigation measures to arrive at a negligible impact determination, for issuance of the IHA for Hilcorp's tug towing activities, NMFS did not rely upon an assumption of set level of effectiveness in mitigation to make our negligible impact determinations. While NMFS acknowledges that visual observations can be difficult in Cook Inlet due to the extreme tidal range, harsh weather, turbid waters, and seasonal ice presence (*e.g.*, Castellote *et al.*, 2020; Lammers *et al.*, 2013), prior monitoring efforts by Hilcorp have shown that it is clearly possible to detect and identify marine mammals to the species several km away from the source, including CIBWs, acknowledging that visibility depends on several factors such as visual acuity,

sea state, glare, light, animal behavior/body type, speed of travel for vessel and animal, *etc.* (Horsley and Larson, 2023). NMFS does not assume total effectiveness of monitoring, but the demonstrated record of PSO sightings for activities in Cook Inlet illustrate that visual monitoring is appropriate for implementing mitigation in this case.

Comment 16: CBD and Cook Inletkeeper comment that NMFS fails to ensure the least practicable adverse impact on CIBWs, the other species or stocks to be taken, and their habitats because NMFS failed to consider requiring several practicable mitigation measures, such as the use of passive acoustic monitors (PAM) and drones to help detect the presence of marine mammals, time-area restrictions, and requiring the use of noise-quieting engines. Cook Inletkeeper recommended that NMFS should require improved look-outs for marine mammals and additional monitoring.

Response: We disagree with the commenter's claims. NMFS has included measures designed to effect the least practicable adverse impact on marine mammals species and their habitat, and has also included appropriate monitoring and reporting requirements. For example, during tugging activities, Hilcorp must conduct pre-clearance monitoring prior to commencing activities and must delay the start of activities if marine mammals are within designated pre-clearance zones (1,500 m for non-CIBW species and at any distance for CIBWs). Hilcorp must also conduct tugging activities with a favorable tide to reduce noise output. Please see the Mitigation section of this notice for a full description of the required mitigation measures.

The CBD states that NMFS should require PAM for marine mammals. The use of PAM for real-time mitigation purposes has been used in Cook Inlet for some studies. These efforts have generally not resulted in successful deployment of PAM or useful detections of marine mammals to inform mitigation and monitoring during the activities due to the environmental conditions of the region (Austin and Zeddies, 2012; Kendall *et al.*, 2015). For example, background acoustic conditions, including flow noise from strong currents, large tidal changes, and weather along with additional noise from the project (*e.g.*, vessel noise, noise from project equipment) made it difficult to detect marine mammals from a real-time PAM system implemented as part of the 2012 Apache 3D seismic survey program in lower- and mid-Cook Inlet (Austin and Zeddies, 2012; Lomac-MacNair *et al.*, 2013) and during the

2015 SAExploration Cook Inlet 3D seismic survey program (Kendall *et al.*, 2015). Further, environmental conditions restricted the type of PAM systems that could be deployed during these programs to a single omnidirectional hydrophone lowered from the side of a vessel, which restricted the possible range of detections. These factors suggest that effective PAM monitoring in Cook Inlet can be challenging (Austin and Zeddies, 2012).

As CBD notes, academic researchers have begun to implement more effective passive acoustic monitors for research purposes at several places in Cook Inlet (*e.g.*, Lammers *et al.*, 2013 and Castellote *et al.*, 2020 as cited by CBD). However, the framework used by those researchers is not practicable for Hilcorp's planned activity. An article on NOAA's website (<https://www.fisheries.noaa.gov/science-blog/beluga-whale-acoustic-monitoring-survey-post-3>) illustrates the level of customization, expertise, and difficulty required to assemble a passive acoustic mooring to then deploy in the Inlet. Additionally, these instruments are stationary, which means to effectively use these monitors as a means of avoiding harassment of marine mammals during Hilcorp's tugging activities, Hilcorp would need to build and successfully deploy dozens (or more) stationary monitors along a route of travel that is subject to change depending upon weather or other environmental and shipping restrictions. Additionally, the data stored on these types of moorings is not accessible until they are retrieved by the researcher who deployed them. In the future, if an established network of passive acoustic monitors with shared access to the data is available, this could be a useful tool for implementing mitigation measures, but is currently not practicable.

Contrary to CBD's assertion, NMFS did consider a time-area restriction; both the IHA and resulting ESA Biological Opinion require that Hilcorp maintain a distance of at least 2.4 km from the mean lower-low water line of the Susitna River Delta (Beluga River to the Little Susitna River) between April 15 and November 15, as this is an area where CIBWs can aggregate for feeding. CBD suggested further restrictions could include, for example, a prohibition on activities in April and May at Trading Bay where and when CIBWs have been observed engaged in probable mating behavior (Lomac-MacNair *et al.*, 2016); or a prohibition on activities from July through September when CIBWs have been observed feeding in the area. Hilcorp's activity in Trading Bay would

be either a single day of transit or several hours of positioning the jack-up rig at an existing well site. As discussed in our above comment response, there has been one published observation of potential (not confirmed) mating behavior of CIBWs in Trading Bay in 2014. Surveys by NMFS or McGuire *et al.* (2020) with concentrated effort on the western coast of Cook Inlet have not yielded a comparable sighting. Closure of the entire area for two months is not practicable as Hilcorp would not be able to access the well sites that are part of the intended activity. As discussed above and in the species-specific section of the proposed IHA, CIBWs are highly concentrated in the upper Cook Inlet especially in the summer months (Goetz *et al.*, 2012; McGuire *et al.*, 2020). In the past, CIBWs used the Kenai area in summer months but that trend has shifted in recent decades to occasional spring and fall sightings (Ovitz, 2019). Throughout the Inlet, mean group sizes during the summer and fall were largest in July and smallest in October, with the largest groups seen during mid-July and early August in the Susitna River Delta, while the smallest group sizes were in the Kenai River Delta. These patterns of high seasonal concentrations have continued to be documented since 2012 (*e.g.*, McGuire *et al.*, 2020). In reflection of this information, NMFS, as described above, has imposed time area restrictions in the Susitna River Delta from April to November to reduce effects of Hilcorp's activity to the greatest extent practicable. A closure in the middle Inlet during the summer months, in the season with longest daylight hours and best conditions for visual observations to implement mitigation and monitoring, is not warranted under the least practicable adverse impact standard.

CBD states that NMFS failed to consider requiring noise-quieting engines, such as electric tugboats, which would have the added benefit of reducing air pollution and greenhouse gas emissions from tugs. NMFS is not aware of any commercially available seaworthy tug vessels that are used in tandem (*e.g.*, three tug configuration) with effective quieting technologies or of any company or entity with electric tug fleets able to use them in tandem as required for Hilcorp's activities. The eWolf, and electronic tug boat, was christened in San Francisco Bay in June 2024 and was the first of its kind in U.S. waters. NMFS is also not aware of alternative technologies available that would allow Hilcorp to move the jack-up rig to various well sites without generating noise, which is the primary

activity that has the potential to take marine mammals by harassment. Further, as described in our response to Comment 8, NMFS does not have the authority under the MMPA or ESA to prescribe that an applicant use alternative technologies to accomplish their objectives.

CBD also commented that NMFS failed to consider an alternative that would require the use of drones, in addition to PSOs, to detect the presence of marine mammals. Cook Inletkeeper similarly suggested that NMFS should require a combination of drone and visual monitoring at all times. While unmanned aerial vehicles (UAVs; *i.e.*, drones) have been used in some instances to observe marine mammals, there are logistical reasons (including limited berthing availability) that this measure is not practicable for Hilcorp to implement for this project. For these reasons, NMFS has not required that Hilcorp use drones or other UASs to assist in detecting marine mammals during their planned tugging activities.

CBD correctly notes that the 1,500 m pre-clearance zone for non-CIBWs is smaller than the Level B harassment zone ($\leq 4,453$ m). However, as mentioned in the response to Comment 7 above, NMFS has prescribed a requirement for this IHA (not included in previous IHAs issued to Hilcorp for take of marine mammals incidental to tugging activities; 87 FR 62364, October 14, 2022) that Hilcorp establish a pre-clearance zone whereby they delay new operational activities should CIBWs be observed at any distance. This measure provides additional protection for CIBWs by further limiting the potential that tugging activities will commence while CIBWs are nearby. Further, using the Level B harassment zone as the clearance zone would not be practicable for some non-CIBW species (*e.g.*, pinnipeds, harbor species) whose smaller size and often cryptic behavior may make accurate identification difficult at greater distances in Cook Inlet's environmental conditions. While underway, PSOs will observe for marine mammals to the greatest distance possible (they are not limited to observing within 1,500 m of the vessel). Any marine mammal sighted by PSOs at any distance is noted and reported to NMFS, per the reporting requirements of the IHAs.

Cook Inletkeeper recommended that NMFS require improved look-outs (*i.e.*, additional observers) and additional monitoring to better inform about the marine mammal populations and distributions as well as impacts from the proposed activities to better inform future activities. Hilcorp has informed

NMFS that stationing additional PSOs on the tug boats or jack-up rig is not a practicable option for this project due to the limited berthing areas on the vessels. Cook Inletkeeper did not provide any recommendations for what additional monitoring would entail; however, the IHA does require that Hilcorp monitor and carefully record all observations of marine mammals, regardless of distance from the activity, as well as additional data such as the group composition of any species observations, their distance and bearing from the source, their closest approach and time spent in estimated harassment zones, and any behavioral observations, including an assessment of behavioral responses thought to have resulted from the tugging activities. This information will be used to inform any future decisions regarding the issuance of IHAs for tugging activities, similarly as details documented by Hilcorp in their reports (*e.g.*, Horsley and Larson, 2023) informed the decisions made herein.

Lastly, Cook Inletkeeper recommended that NMFS not permit tug towing rig activities during periods of low visibility or at night, even to accommodate a favorable tide. Hilcorp's ability to move the jack-up rig is limited by several factors, including the presence of favorable environmental conditions for safe operations, crew availability, and the availability of the tug boats, which is limited by other scheduled work. Hilcorp must balance these factors with the timing of their planned actions. Despite this, Hilcorp will only begin operations in low light or night conditions if necessary for safety purposes (*e.g.*, incoming inclement weather or ice) or to accommodate a favorable tide. Tugs may work at up to 80 percent power for much longer durations of time when pulling against the strong tides in Cook Inlet. As sound is the primary potential stressor from the proposed activity, limiting the sound output is preferred and tugs moving with the tide will reduce engine load by as much as 60 percent. Additionally, limited daylight, particularly in the shoulder seasons, results in at least a portion of activity occurring in low light or night conditions. As the ice-free season is already limited to roughly half the year, in order to maximize the ice-free season, operations in low-light or night conditions may be necessary. To mitigate this and enhance PSO's visibility, PSOs are required to use NMFS-approved night vision devices (NVDs) (*e.g.*, PVS-7s, or equivalent) and have magnifying lenses available for use.

Comment 17: Cook Inletkeeper asserts that NMFS must consider whether the cumulative impacts from Hilcorp's proposed activities in Cook Inlet will have a negligible impact on the area's marine mammals. Specifically, NMFS must consider the cumulative impacts of noise in Cook Inlet, including noise impacts from vessels and nearby construction, and determine what activities or combinations of activities would exceed a cumulative negligible impact threshold. Cook Inletkeeper urges NMFS to perform such an analysis before authorizing any ITAs for take of CIBWs.

Response: Neither the MMPA nor NMFS' codified implementing regulations call for consideration of the take resulting from other activities in the negligible impact analysis. The preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989) states, in response to comments, that the impacts from other past and ongoing anthropogenic activities are to be incorporated into the negligible impact analysis via their impacts on the baseline. Consistent with that direction, NMFS has factored into its negligible impact analysis the impacts of other past and ongoing anthropogenic activities via their impacts on the baseline (*e.g.*, as reflected in the density/distribution and status of the species, population size and growth rate, and other relevant stressors (such as incidental mortality in commercial fisheries, Unusual Mortality Events (UMEs), and subsistence hunting); see the Negligible Impact Analyses and Determinations section of this notice of issuance). The 1989 final rule for the MMPA implementing regulations also addressed public comments regarding cumulative effects from future, unrelated activities. There, NMFS stated that such effects are not considered in making findings under section 101(a)(5) concerning negligible impact. In this case, this IHA as well as other incidental take authorizations (ITAs) currently in effect or proposed within the specified geographic region, are appropriately considered an unrelated activity relative to the others. The ITAs are unrelated in the sense that they are discrete actions under section 101(a)(5)(D) issued to discrete applicants.

Through the response to public comments in the 1989 implementing regulations, NMFS also indicated (1) that we would consider cumulative effects that are reasonably foreseeable when preparing a National Environmental Policy Act (NEPA) analysis, and (2) that reasonably foreseeable cumulative effects would also be considered under section 7 of the Endangered Species Act (ESA) for ESA-listed species, as appropriate. Accordingly, NMFS has prepared an EA that considers cumulative effects. Additionally, under the ESA, NMFS' Biological Opinion independently considered the reasonably foreseeable cumulative effects of activities on ESA-listed species.

Comment 18: Cook Inletkeeper raises concerns with Hilcorp's record of safety and environmental compliance. They state that according to the Alaska Oil and Gas Conservation Commission (AOGCC), Hilcorp has a documented pattern of accidents and safety violations and disregard for compliance with the law in Alaska. They assert that NMFS must consider Hilcorp's record and provide rigorous oversight.

Response: It is the responsibility of the applicants to comply with all applicable laws and regulations, and to work with the state to obtain approval of their Oil Discharge Prevention and Contingency Plans (ODPCP). Hilcorp complied with the mitigation, monitoring, and reporting requirements of previously issued LOAs and IHAs under the MMPA (Fairweather Science, LLC, 2020; Korsmo *et al.*, 2022; Horsley and Larson, 2023; Weston Solutions, 2024), thus we have no reason to believe that the requirements of the current IHA will not be upheld.

Changes From the Proposed IHA to Final IHA

There are no changes from the proposed IHA to the final IHA other than the addition of some clarifying language and some minor typographical corrections.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior

and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>) and more general information about these species (*e.g.*, physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 1 lists all species or stocks for which take is expected and authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and ESA and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included in table 1 as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. 2022 SARs. All values presented in table 1 are the most recent available at the time of publication (including from the draft 2023 SARs) and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES ¹ WITH ESTIMATED TAKE FROM THE SPECIFIED ACTIVITIES

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Artiodactyla—Cetacea—Mysticeti (baleen whales)						
<i>Family Eschrichtiidae:</i> Gray Whale	<i>Eschrichtius robustus</i>	Eastern N Pacific	- , - , N	26,960 (0.05, 25,849, 2016) ..	801	131
<i>Family Balaenidae:</i> <i>Family Balaenopteridae</i> (rorquals):						
Fin Whale	<i>Balaenoptera physalus</i>	Northeast Pacific	E, D, Y	UND ⁵ (UND, UND, 2013)	UND	0.6
Humpback Whale	<i>Megaptera novaeangliae</i>	Hawai'i	- , - , N	11,278 (0.56, 7,265, 2020)	127	27.09
		Mexico-North Pacific	T, D, Y	N/A ⁶ (N/A, N/A, 2006)	UND	0.57
		Western North Pacific	E, D, Y	1,084 (0.088, 1,007, 2006)	3.4	5.82
Minke Whale	<i>Balaenoptera acutorostrata</i>	Alaska	- , - , N	N/A ⁷ (N/A, N/A, N/A)	UND	0
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Delphinidae:</i> Killer Whale	<i>Orcinus orca</i>	Eastern North Pacific Alaska Resident.	- , - , N	1,920 (N/A, 1,920, 2019)	19	1.3
		Eastern North Pacific Gulf of Alaska, Aleutian Islands and Bering Sea Transient.	- , - , N	587 (N/A, 587, 2012)	5.9	0.8
Pacific White-Sided Dol- phin.	<i>Lagenorhynchus obliquidens</i>	North Pacific	- , - , N	26,880 (N/A, N/A, 1990)	UND	0
<i>Family Monodontidae (white whales):</i> Beluga Whale	<i>Delphinapterus leucas</i>	Cook Inlet	E, D, Y	279 ⁸ (0.061, 267, 2018)	0.53	0
<i>Family Phocoenidae (por- poises):</i> Dall's Porpoise	<i>Phocoenoides dalli</i>	Alaska	- , - , N	UND ⁹ (UND, UND, 2015)	UND	37
Harbor Porpoise	<i>Phocoena phocoena</i>	Gulf of Alaska	- , - , Y	31,046 (0.21, N/A, 1998)	UND	72
Order Carnivora—Pinnipedia						
<i>Family Otariidae (eared seals and sea lions):</i> CA Sea Lion	<i>Zalophus californianus</i>	U.S	- , - , N	257,606 (N/A, 233,515, 2014)	14,011	>321
Steller Sea Lion	<i>Eumetopias jubatus</i>	Western	E, D, Y	49,837 ¹⁰ (N/A, 49,837, 2020)	299	267
<i>Family Phocidae (earless seals):</i> Harbor Seal	<i>Phoca vitulina</i>	Cook Inlet/Shelikof Strait	- , - , N	28,411 (N/A, 26,907, 2018) ...	807	107

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy (<https://marinemammalscience.org/science-and-publications/list-marine-mammal-species-subspecies/>; Committee on Taxonomy (2022)).

² Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance.

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

⁵ The best available abundance estimate for this stock is not considered representative of the entire stock as surveys were limited to a small portion of the stock's range. Based upon this estimate and the N_{min}, the PBR value is likely negatively biased for the entire stock.

⁶ Abundance estimates are based upon data collected more than 8 years ago and, therefore, current estimates are considered unknown.

⁷ Reliable population estimates are not available for this stock. Please see Friday *et al.* (2013) and Zerbini *et al.* (2006) for additional information on numbers of minke whales in Alaska.

⁸ On June 15, 2023, NMFS released an updated abundance estimate for endangered Cook Inlet beluga whales (CIBWs) in Alaska (Goetz *et al.*, 2023). Data collected during NOAA Fisheries' 2022 aerial survey suggest that the whale population is stable or may be increasing slightly. Scientists estimated that the population size is between 290 and 386, with a median best estimate of 331. In accordance with the MMPA, this population estimate will be incorporated into the CIBW SAR, which will be reviewed by an independent panel of experts, the Alaska Scientific Review Group. After this review, the SAR will be made available as a draft for public review before being finalized.

⁹ The best available abundance estimate is likely an underestimate for the entire stock because it is based upon a survey that covered only a small portion of the stock's range.

¹⁰ Nest is best estimate of counts, which have not been corrected for animals at sea during abundance surveys.

As indicated above, all 12 species (with 15 managed stocks) in table 1 temporally and spatially co-occur with the activity to the degree that take could occur. In addition, the northern sea otter may be found in Cook Inlet, Alaska. However, northern sea otters are managed by the U.S. Fish and Wildlife Service and are not considered further in this document.

A detailed description of the species likely to be affected by Hilcorp's tugging activities, including a brief introduction to the affected stock as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice of the proposed IHA (89 FR 60164, July 24, 2024). Since that time, we are not aware of any changes in the status of these species

and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (<https://www.fisheries.noaa.gov/find-species>) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals

underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.*, 1995; Wartzok and Ketten, 1999; Au and Hastings, 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential

techniques) or estimated hearing ranges (behavioral response data, anatomical modeling, *etc.*). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65 decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from Southall *et al.* (2007) retained. Marine mammal hearing groups and their

associated hearing ranges are provided in table 2. Specific to this action, gray whales, fin whales, minke whales, and humpback whales are considered low-frequency (LF) cetaceans, beluga whales, pacific white-sided dolphins, and killer whales are considered mid-frequency (MF) cetaceans, harbor porpoises and Dall’s porpoises are considered high-frequency (HF) cetaceans, Steller sea lions and California sea lions are otariid pinnipeds (OW), and harbor seals are phocid pinnipeds (PW).

TABLE 2—MARINE MAMMAL HEARING GROUPS
[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>).	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (i.e., all species within the group), where individual species’ hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.*, 2007) and PW pinniped (approximation).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from Hilcorp’s tugging activities have the potential to result in harassment of marine mammals in the vicinity of the project area. The notice of proposed IHA (89 FR 60164, July 24, 2024) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from tugging activities on marine mammals and their habitat. That information and analysis is referenced in this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (89 FR 60164, July 24, 2024).

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes authorized through the IHA, which will inform NMFS’ consideration of “small numbers,” the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines “harassment” as any act of pursuit, torment, or annoyance,

which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will be by Level B harassment only, as use of the acoustic sources (i.e., tugging activities) may result in disruption of behavioral patterns of individual marine mammals. We note here that given the slow, predictable, and generally straight path of tug towing, holding, and positioning, the likelihood of a resulting disruption of marine mammal behavioral patterns that would qualify as harassment is considered relatively low; however, at the request of the applicant, we have quantified the potential take from this activity, analyzed the impacts, and authorized take. The required mitigation and monitoring measures are expected to minimize the potential for take and, if take were to occur, the severity of the taking to the extent practicable. Based on the nature of the activity (e.g., the very small area ensonified above the Level A harassment threshold), Level A harassment is neither anticipated nor authorized.

No serious injury or mortality is anticipated or authorized for this

activity. Below we describe how the take numbers are estimated.

To determine whether Level B harassment is expected to result from acoustic exposure, NMFS considers the received levels a marine mammal is expected to be exposed to as compared to the relevant NMFS Level B harassment thresholds, as well as multiple contextual factors that can impact whether a marine mammal’s behavioral patterns are likely to be disrupted (e.g., bearing and distance, predictability of source movement, whether habituation in a noisier/busy area is likely); specifically, whether any contextual factors would be expected to lower the likelihood of behavioral disturbance even when a marine mammal is exposed above the Level B harassment threshold. Where the take of marine mammals is considered likely or is requested by the applicant, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed (absent relevant contextual factors) or incur some degree of permanent hearing impairment where relevant; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and (4) the number of days of activities. We note that while these factors can

contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can qualitatively inform take estimates is also sometimes available (e.g., previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (e.g., frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (e.g., bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (e.g., Richardson *et al.*, 1995; Southall *et al.* 2007, 2021, Ellison *et al.* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is

both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to support the estimation of the onset of Level B harassment and to quantify likely Level B harassment. Acknowledging the consideration of contextual factors noted above, NMFS generally predicts that marine mammals are likely to be behaviorally disturbed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-squared pressure received levels (root mean square [RMS] sound pressure level [SPL]) of 120 dB (referenced to 1 micropascal (re 1 μ Pa)) for continuous sources (e.g., tugging, vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (e.g., seismic airguns) or intermittent (e.g., scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these thresholds are expected to include any likely takes by TTS as, in most cases, the likelihood of TTS occurs at distances from the source smaller than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that would not otherwise occur.

Hilcorp's planned activity includes the use of continuous sources (tugging activities), and therefore the RMS SPL threshold of 120 dB is applicable.

Level A harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0) (Technical Guidance, 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). Hilcorp's planned activity includes the use of non-impulsive sources (i.e., tugging activities).

The thresholds identifying the onset of PTS are provided in table 3 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>. Take by Level A harassment is considered unlikely for this action because of the small estimated Level A harassment zones resulting from tugs under load with a jack-up rig (i.e., <1 m) (as described below), the mobile nature of both the activity itself and marine mammals in the project area, and the required mitigation and monitoring program (see the Mitigation and Monitoring sections of this notice).

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PTS

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 219 dB; $L_E,LF,24h$: 183 dB	Cell 2: $L_E,LF,24h$: 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_E,MF,24h$: 185 dB	Cell 4: $L_E,MF,24h$: 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_E,HF,24h$: 155 dB	Cell 6: $L_E,HF,24h$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 218 dB; $L_E,PW,24h$: 185 dB	Cell 8: $L_E,PW,24h$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,flat}$: 232 dB; $L_E,OW,24h$: 203 dB	Cell 10: $L_E,OW,24h$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI, 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic

thresholds, including source levels and transmission loss (TL) coefficient.

The sound field in the project area is the existing background noise plus additional noise resulting from the planned project. Marine mammals are

expected to be affected via sound generated by the primary components of the project (i.e., tugging activities). Calculation of the area ensonified by the planned action is dependent on the background sound levels at the project

site, the source levels of the planned activities, and the estimated TL coefficients for the planned activities at the site. These factors are addressed below.

Sound Source Levels of Tugging Activities. The project includes three to four tugs under load with a jack-up rig. Hilcorp conducted a literature review of underwater sound emissions of tugs under various loading efforts. The sound source levels for tugs of various horsepower (2,000 to 8,200) under load can range from approximately 164 dB RMS to 202 dB RMS. This range largely relates to the level of operational effort, with full power output and higher speeds generating more propeller cavitation and hence greater sound source levels than lower power output and lower speeds. Tugs under tow produce higher source levels than tugs transiting with no load because of the higher power output necessary to pull the load. The amount of power the tugs expend while operating is the best predictor of relative sound source level. Several factors will determine the duration that the tugboats are towing the jack-up rig, including the origin and destination of the towing route (e.g., Rig Tenders Dock, an existing platform) and the tidal conditions. The power output will be variable and influenced by the prevailing wind direction and velocity, the current velocity, and the tidal stage. Unless human safety or equipment integrity are at risk, transport will be timed with the tide to minimize towing duration and power output.

Hilcorp's literature review identified no existing data on sound source levels of tugs towing jack-up rigs. Accordingly, for this analysis, Hilcorp considered data from tug-under-load activities, including berthing and towing activities. Austin and Warner (2013) measured 167 dB RMS for tug towing barge activity in Cook Inlet. Blackwell and Greene (2002) reported berthing activities in the POA with a source level of 179 dB RMS. Laurinoli *et al.* (2005) measured a source level of 200 dB RMS for anchor towing activities by a tugboat in the Strait of Juan de Fuca, WA. The Roberts Bank Terminal 2 study (2014) repeated measurements of the same tug operating under different speeds and loading conditions. Broadband measurements from this study ranged from approximately 162 dB RMS up to 200 dB RMS.

The rig manager for Hilcorp, who is experienced with towing jack-up rigs in Cook Inlet, described operational conditions wherein the tugs generally operate at half power or less for the majority of the time they are under load (pers. Comm., Durham, 2021). Transits

with the tide (lower power output) are preferred for safety reasons, and effort is made to reduce or eliminate traveling against the tide (higher power output). The Roberts Bank Terminal 2 study (2014) allowed for a comparison of source levels from the same vessel (Seaspan Resolution tug) at half power versus full power. Seaspan Resolution's half-power (*i.e.*, 50 percent) berthing scenario had a sound source level of 180 dB RMS. In addition, the Roberts Bank Terminal 2 Study (2014) reported a mean tug source level of 179.3 dB RMS from 650 tug transits under varying load and speed conditions.

The 50 percent (or less) power output scenario will occur during the vast majority of tug towing jack-up rig activity. Therefore, based on Hilcorp's literature review, a source level of 180 dB RMS was found to be an appropriate proxy source level for a single tug under load based on the Roberts Bank Terminal 2 study. If all three tugs were operating simultaneously at 180 dB RMS, the overall source emission levels will be expected to increase by approximately 5 dB when logarithmically adding the sources (*i.e.*, to 185 dB RMS). To further support this level as an appropriate proxy, a sound source verification (SSV) study performed by JASCO Applied Sciences (JASCO) in Cook Inlet in October 2021 (Lawrence *et al.*, 2022) measured the sound source level from three tugs pulling a jack-up rig in Cook Inlet at various power outputs. Lawrence *et al.* (2022) reported a source level of 167.3 dB RMS for the 20 percent-power scenario and a source level of 205.9 dB RMS for the 85 percent-power scenario. Assuming a linear scaling of tug power, a source level of 185 dB RMS was calculated as a single point source level for three tugs operating at 50 percent power output. Because the 2021 Cook Inlet SSV measurements by JASCO represent the most recent best available data, and because multiple tugs may be operating simultaneously, the analyses presented below use a mean tug sound source level scenario of 185 dB RMS to calculate the 120-dB isopleths for three tugs operating at 50 percent power output. In practice, the load condition of the three tugs is unlikely to be identical at all times, so sound emissions will be dominated by the single tug in the group that is working hardest at any point in time.

Further modeling was done to account for one additional tug working for 1 hour at 50 percent power during jack-up rig positioning, a stationary activity. This is equivalent in terms of acoustic energy to three tugs operating at 180.0 dB RMS (each of them) for 4

hours, joined by a fourth tug for 1 hour, increasing the source level to 186.0 dB RMS only during the 1-hour period (the logarithmic sum of four tugs working together at 180.0 dB RMS). A sound exposure level (SEL) of 185.1 dB was used to account for the cumulative sound exposure when calculating Level A harassment by adding a 4th tug operating at 50 percent power for 20 percent of the 5-hour period. This is equivalent in terms of acoustic energy to three tugs operating at 185.0 dB for 4 hours, joined by a fourth tug for 1 hour, increasing the source level to 186.0 dB only during the 1-hour period. The use of the 20 percent duty cycle was a computational requirement and, although equal in terms of overall energy and determination of impacts, should not be confused with the actual instantaneous SPL (see section 6.2.1.1 of Hilcorp's application for additional computational details).

In summary, Hilcorp proposed to use a source level of 185.0 dB RMS to calculate the stationary 120-dB isopleth where three tugs were under load for 4 hours with a 50 percent power output and a source level of 186.0 dB RMS to calculate the stationary 120-dB isopleth where four tugs were under load for 1 hour with a 50 percent power output. Further, Hilcorp proposed to use a source level of 185.1 dB SEL to calculate the stationary Level A harassment isopleths where three tugs were underload for 4 hours and then one tug joined for 1 additional hour. Lastly, Hilcorp proposed to use the 185.0 dB RMS level to model the mobile Level A harassment isopleths for three tugs under load with a 50 percent power output. NMFS concurs that Hilcorp's proposed source levels are appropriate.

Underwater Sound Propagation Modeling. Hilcorp contracted SLR Consulting to model the extent of the harassment isopleths for tugs under load with a jack-up rig during their planned activities. Cook Inlet is a particularly complex acoustic environment with strong currents, large tides, variable sea floor and generally changing conditions. Accordingly, Hilcorp applied a more detailed propagation model than the "practical spreading loss" approach that uses a factor of 15. The objective of a more detailed propagation calculation is to improve the representation of the influence of some environmental variables, in particular by accounting for bathymetry and specific sound source locations and frequency-dependent propagation effects.

Modeling was conducted using the dBSea software package. The fluid parabolic equation modeling algorithm was used with 5 Padé terms to calculate

the TL between the source and the receiver at low frequencies (1/3-octave bands, 31.5 Hz up to 1 kHz). For higher frequencies (1 kHz up to 8 kHz) the ray tracing model was used with 1,000 reflections for each ray. Sound sources were assumed to be omnidirectional and modeled as points. The received sound levels for the project were calculated as follows: (1) One-third octave source spectral levels were obtained via reference spectral curves with subsequent corrections based on their corresponding overall source levels; (2) TL was modeled at one-third octave band central frequencies along 100 radial paths at regular increments around each source location, out to the maximum range of the bathymetry data set or until constrained by land; (3) The bathymetry variation of the vertical plane along each modeling path was obtained via interpolation of the bathymetry dataset which has 83 m grid resolution; (4) The one-third octave source levels and transmission loss were combined to obtain the received levels as a function of range, depth, and frequency; and (5) The overall received levels were calculated at a 1-m depth resolution along each propagation path by summing all frequency band spectral levels.

Model Inputs. Bathymetry data used in the model was collected from the NOAA National Centers for Environmental Information (AFSC, 2019). Using NOAA's temperature and salinity data, sound speed profiles were computed for depths from 0 to 100 m for May, July, and October to capture the range of possible sound speed depending on the time of year Hilcorp's work could be conducted. These sound speed profiles were compiled using the Mackenzie Equation (1981) and are presented in table 8 of Hilcorp's application (available at [https://www.fisheries.noaa.gov/action/incidental-take-authorization-hilcorp-alaska-llc-oil-and-gas-activities-cook-](https://www.fisheries.noaa.gov/action/incidental-take-authorization-hilcorp-alaska-llc-oil-and-gas-activities-cook-inlet-alaska-0)

[inlet-alaska-0](https://www.fisheries.noaa.gov/action/incidental-take-authorization-hilcorp-alaska-llc-oil-and-gas-activities-cook-inlet-alaska-0)). Geoacoustic parameters were also incorporated into the model. The parameters were based on substrate type and their relation to depth. These parameters are presented in table 9 of Hilcorp's application (available at [https://www.fisheries.noaa.gov/action/incidental-take-authorization-hilcorp-alaska-llc-oil-and-gas-activities-cook-](https://www.fisheries.noaa.gov/action/incidental-take-authorization-hilcorp-alaska-llc-oil-and-gas-activities-cook-inlet-alaska-0)

Detailed broadband sound transmission loss modeling in dBSea used the source level of 185 dB RMS calculated in one-third octave band levels (31.5 Hz to 64,000 Hz) for frequency dependent solutions. The frequencies associated with tug sound sources occur within the hearing range of marine mammals in Cook Inlet. Received levels for each hearing marine mammal group based on one-third octave auditory weighting functions were also calculated and integrated into the modeling scenarios of dBSea. For modeling the distances to relevant PTS thresholds, a weighting factor adjustment was not used; instead, the data on the spectrum associated with their source was used and incorporated the full auditory weighting function for each marine mammal hearing group.

The tugs towing the jack-up rig represent a mobile sound source, while tugs holding and positioning the jack-up rig on a platform are more akin to a stationary sound source. In addition, three tugs will be used for towing (mobile) and holding and positioning (stationary) and up to four tugs could be used for positioning (stationary). Consequently, sound TL modeling was undertaken for the various stationary and mobile scenarios for three and four tugs to generate the distances to the 120-dB (relevant Level B) and Level A harassment isopleths.

For acoustic modeling of the stationary Level A harassment isopleths, two locations representative of where tugs will be stationary while they position the jack-up rig were selected in

middle Cook Inlet near the Tyonek platform and in lower Trading Bay where the production platforms are located. To account for the mobile scenarios, the acoustic model calculated the Level A harassment isopleths along a representative route from the Rig Tenders dock in Nikiski to the Tyonek platform, the northernmost platform in Cook Inlet (representing middle Cook Inlet), as well as from the Tyonek Platform to the Dolly Varden platform in lower Trading Bay, then from the Dolly Varden platform back to the Rig Tenders Dock in Nikiski. Note that this route is representative of a typical route the tugs may take; the specific route is not yet known, as the order in which platforms will be drilled with the jack-up rig is not yet known. The locations represent a range of water depths from 18 to 77 m found throughout the project area.

For mobile Level B harassment and stationary Level B harassment with three tugs, the average distance to the 120 dB RMS threshold was based on the assessment of 100 radials at 25 locations across seasons (May, July, and October) and represented the average 120-dB isopleth for each season and location (table 4). The result is a mobile and stationary 120-dB isopleth of 3,850 m when three tugs are used (table 4). For four stationary tugs, the average distance to the 120 dB threshold was based on 100 radials at two locations, one in Trading Bay and one in middle Cook Inlet, across seasons (May, July, and October) and represents the average 120-dB isopleth for each season and location. The result is a stationary 120-dB isopleth of 4,453 m when four tugs are in use (table 5). NMFS concurs that 3,850 m and 4,453 m are appropriate estimates for the extent of the 120-dB isopleths for Hilcorp's towing, holding, and positioning activities when using three and four tugs, respectively, for the purpose of predicting the number of potential takes by Level B harassment.

TABLE 4—AVERAGE DISTANCES TO THE 120-dB THRESHOLD FOR THREE TUGS TOWING (MOBILE) AND HOLDING AND POSITIONING FOR 4 HOURS (STATIONARY)

Location	Average distance to 120-dB threshold (m)			Season average distance to 120-dB threshold (m)
	May	July	October	
M1	4,215	3,911	4,352	4,159
M2	3,946	3,841	4,350	4,046
M3	4,156	3,971	4,458	4,195
M4	4,040	3,844	4,364	4,083
M5	4,053	3,676	4,304	4,011
M6	3,716	3,445	3,554	3,572
M7	2,947	2,753	2,898	2,866
M8	3,270	3,008	3,247	3,175

TABLE 4—AVERAGE DISTANCES TO THE 120-dB THRESHOLD FOR THREE TUGS TOWING (MOBILE) AND HOLDING AND POSITIONING FOR 4 HOURS (STATIONARY)—Continued

Location	Average distance to 120-dB threshold (m)			Season average distance to 120-dB threshold (m)
	May	July	October	
M9	3,567	3,359	3,727	3,551
M10	3,600	3,487	3,691	3,593
M11	3,746	3,579	4,214	3,846
M12	3,815	3,600	3,995	3,803
M13	4,010	3,831	4,338	4,060
M14	3,837	3,647	4,217	3,900
M15	3,966	3,798	4,455	4,073
M16	3,873	3,676	4,504	4,018
M18	5,562	3,893	4,626	4,694
M20	5,044	3,692	4,320	4,352
M22	4,717	3,553	4,067	4,112
M24	4,456	3,384	4,182	4,007
M25	3,842	3,686	4,218	3,915
M26	3,690	3,400	3,801	3,630
M27	3,707	3,497	3,711	3,638
M28	3,546	3,271	3,480	3,432
M29	3,618	3,279	3,646	3,514
Average	3,958	3,563	4,029	3,850

TABLE 5—AVERAGE DISTANCES TO THE 120-dB THRESHOLD FOR FOUR TUGS POSITIONING (STATIONARY) FOR 1 HOUR

Location	Average distance to 120-dB threshold (m)			Season average distance to 120-dB threshold (m)
	May	July	October	
Trading Bay	4,610	3,850	4,810	4,423
Middle CI	4,820	4,130	4,500	4,483
Average	4,715	3,990	4,655	4,453

The average Level A harassment distances for the stationary, four tug scenario were calculated assuming a SEL of 185.1 dB for a 5-hour exposure duration (table 6). For the mobile, three tug scenario, the average Level A harassment distances were calculated assuming a SEL of 185.0 dB with an 18-second exposure period (table 7). This 18-second exposure was derived using the standard TL equation (Source Level – TL = Received Level) for

determining threshold distance (R [m]), where $TL = 15\log_{10}$. In this case, the equation was $185.0 \text{ dB} - 15\log_{10} = 173 \text{ dB}$. Solving for threshold distance (R) yields a distance of approximately 6 m, which was then used as the preliminary ensonified radius to determine the duration of time it would take for the ensonified area of the sound source traveling at a speed of 2.06 m/s (4 knots) to pass a marine mammal. The duration (twice the radius divided by speed of

the source) that the ensonified area of a single tug would take to pass a marine mammal under these conditions is 6 seconds. An 18-second exposure was used in the model to reflect the time it would take for three ensonified areas (from three consecutive individual tugs) to pass a single point that represents a marine mammal (6 seconds + 6 seconds + 6 seconds = 18 seconds).

TABLE 6—AVERAGE DISTANCES TO THE LEVEL A HARASSMENT THRESHOLDS FOR FOUR STATIONARY TUGS UNDER LOAD WITH A JACK-UP RIG FOR 5 HOURS

Location	Season	Average distance (m) to Level A harassment threshold by functional hearing group				
		LF	MF	HF	PW	OW ¹
Trading Bay	May	107	77	792	64	.....
Trading Bay	July	132	80	758	66	.....
Trading Bay	October	105	75	784	79	.....
Middle Cook Inlet	May	86	85	712	78	.....
Middle Cook Inlet	July	95	89	718	80	.....
Middle Cook Inlet	October	82	86	730	80	.....

TABLE 6—AVERAGE DISTANCES TO THE LEVEL A HARASSMENT THRESHOLDS FOR FOUR STATIONARY TUGS UNDER LOAD WITH A JACK-UP RIG FOR 5 HOURS—Continued

Location	Season	Average distance (m) to Level A harassment threshold by functional hearing group				
		LF	MF	HF	PW	OW ¹
Average		102	82	749	75	0

¹ The Level A harassment distances are smaller than the footprint of the tugs.

TABLE 7—AVERAGE DISTANCES TO THE LEVEL A HARASSMENT THRESHOLDS FOR THREE MOBILE TUGS UNDER LOAD WITH A JACK-UP RIG ASSUMING AN 18-SECOND EXPOSURE DURATION

Location	Season	Average distance (m) to Level A threshold by functional hearing group				
		LF ¹	MF ¹	HF	PW ¹	OW ¹
M2	May .....	.....	.....	10	.....	.....
M2	July .....	.....	.....	5	.....	.....
M2	October .....	.....	.....	10	.....	.....
M11	May .....	.....	.....	10	.....	.....
M11	July .....	.....	.....	5	.....	.....
M11	October .....	.....	.....	10	.....	.....
M22	May .....	.....	.....	10	.....	.....
M22	July .....	.....	.....	5	.....	.....
M22	October .....	.....	.....	10	.....	.....
Average .....	.....	0	0	8	0	0

¹ The Level A harassment distances are smaller than the footprint of the tugs.

Tugs are anticipated to be towing the jack-up rig between platforms and considered a mobile sound source for 6 hours in a single day per jack-up rig move. Tugs are anticipated to be towing the jack-up rig and considered a mobile source during demobilization and mobilization to/from Rig Tenders Dock in Nikiski for 9 hours. One jack-up rig move between platforms is planned during the IHA period. Tugs are anticipated to be holding or positioning the jack-up rig at the platforms or Rig Tenders Dock during demobilization and mobilization and are considered a stationary sound source for 5 hours in the first day and 5 hours in the second day if a second attempt to pin the jack-up rig is required due to the first

pinning event being unsuccessful. A second attempt was built into the exposure estimate for each pinning event; three total pinning events are anticipated during the IHA period for production drilling.

The ensoufied area for a location-to-location transport for production drilling represents a rig move between two production platforms in middle Cook Inlet and/or Trading Bay and includes 6 mobile hours over an average distance of 16.77 km in a single day and 5 stationary hours on the first day and 5 stationary hours on a second day. The 5 stationary hours are further broken into 4 hours with three tugs under load and 1 hour with four tugs under load.

One location-to-location jack-up rig move is planned for the IHA period.

The ensoufied area for production drilling demobilization and mobilization represents a rig move from a production platform in middle Cook Inlet to Rig Tenders Dock in Nikiski and reverse for mobilization and includes 9 mobile hours over a distance of up to 64.34 km in a single day and 5 stationary hours on the first day and 5 stationary hours on a second day, which are further broken into the same three tugs working for 4 hours and four tugs working for 1 hour as mentioned above. A summary of the estimated Level A and Level B harassment distances and areas for the various tugging scenarios is provided in table 8.

TABLE 8—AVERAGE DISTANCES AND AREAS TO THE ESTIMATED LEVEL A AND LEVEL B HARASSMENT THRESHOLDS FOR THE VARIOUS TUGGING SCENARIOS

Activity	Level A harassment distance (m)/area (km²)					Level B harassment distance (m)/area (km²)
	LF	MF	HF	PW	OW	
Demobilization/Mobilization						
3 Tugs Towing a Jack-Up Rig—Mobile	(¹)	(¹)	8/1.07	(¹)	(¹)	3,850/541.96
3 Tugs Towing a Jack-Up Rig—Stationary for up to 4 hours	102/0.03	82/0.02	749/1.76	75/0.02	(¹)	3,850/46.56
4 Tugs Towing a Jack-Up Rig—Stationary for up to 1 hour	102/0.03	82/0.02	749/1.76	75/0.02	(¹)	4,453/62.30
Location-to-Location						
3 Tugs Towing a Jack-Up Rig—Mobile	(¹)	(¹)	8/0.28	(¹)	(¹)	3,850/175.6
3 Tugs Towing a Jack-Up Rig—Stationary for up to 4 hours	102/0.03	82/0.02	749/1.76	75/0.02	(¹)	3,850/46.56
4 Tugs Towing a Jack-Up Rig—Stationary for up to 1 hour	102/0.03	82/0.02	749/1.76	75/0.02	(¹)	4,453/62.30

¹ The Level A harassment distances are smaller than the footprint of the tugs.

Marine Mammal Occurrence

In this section we provide information about the occurrence of marine mammals, including density or other relevant information that informed the take calculations.

Densities for marine mammals in Cook Inlet were derived from NMFS’ Marine Mammal Laboratory (MML) aerial surveys, typically flown in June, from 2000 to 2022 (Rugh *et al.*, 2005; Sheldon *et al.*, 2013, 2015b, 2017, 2019, 2022; Goetz, *et al.* 2023). While the

surveys are concentrated for a few days in summer annually, which may skew densities for seasonally present species, they represent the best available long-term dataset of marine mammal sightings available in Cook Inlet. Densities were calculated by summing the total number of animals observed during the MML surveys and dividing the number sighted by the approximate area of Cook Inlet. For CIBWs, several correction factors were applied to the density estimates to address perception, availability, and proximity bias;

correction factors were not applied to the non-CIBW density estimates. For CIBWs, densities were derived for the entirety of Cook Inlet as well as for middle and lower Cook Inlet; for non-CIBW marine mammals densities account for both lower and upper Cook Inlet. There are no density estimates available for California sea lions and Pacific white-sided dolphins in Cook Inlet, as they were so infrequently sighted. Average densities across survey years are presented in table 9.

TABLE 9—AVERAGE DENSITIES OF MARINE MAMMAL SPECIES IN COOK INLET ¹

Species	Density (individuals per km ²)
Humpback whale	0.00185
Minke whale	0.00003
Gray whale	0.00007
Fin whale	0.00028
Killer whale	0.00061
Beluga whale (Entire Cook Inlet)	0.07166
Beluga whale (Middle Cook Inlet)	0.00658
Beluga whale (Lower Cook Inlet)	0.00003
Beluga whale (North Cook Inlet) ²	0.00166
Beluga whale (Lower Cook Inlet) ²	0.00000
Beluga whale (Trading Bay) ²	0.01505
Dall’s porpoise	0.00014
Harbor porpoise	0.00380
Pacific white-sided dolphin	³ N/A
Harbor seal	0.26819
Steller sea lion	0.00669
California sea lion	³ N/A

¹ Density estimates are derived from MML surveys unless otherwise identified.
² Density estimates are derived from the Goetz *et al.* (2012a) habitat-based model.
³ Density estimates are not available in Cook Inlet for this species.

CIBW densities estimated from the MML surveys across regions are low, however, there is a known effect of seasonality on their distribution. Thus, densities derived directly from these summer surveys might underestimate the density of CIBWs in lower Cook Inlet at other ice-free times of the year. Therefore, additional CIBW densities were considered as a comparison of available data. The other mechanism for arriving at CIBW density considered here is the Goetz *et al.* (2012a) habitat-based model. This model is derived from sightings and incorporates depth soundings, coastal substrate type, environmental sensitivity index, anthropogenic disturbance, and anadromous fish streams to predict densities throughout Cook Inlet. The output of this model is a density map of Cook Inlet, which predicts spatially explicit density estimates for CIBW. Using the resulting grid densities, average densities were calculated for two regions applicable to Hilcorp’s operations (table 9). The densities applicable to the area of activity (*i.e.*, the North Cook Inlet Unit density for

middle Cook Inlet activities and the Trading Bay density for activities in Trading Bay) are provided in table 9 above and were carried forward to the exposure estimates as they were deemed to likely be the most representative estimates available. Likewise, when a range is given, the higher end of the range was used out of caution to calculate exposure estimates (*i.e.*, Trading Bay in the Goetz model has a range of 0.004453 to 0.015053; 0.015053 was used for the exposure estimates).

Take Estimation

Here we describe how the information provided above was synthesized to produce a quantitative estimate of the take that could occur and is authorized.

As described above, Hilcorp’s tugging activity considers a total of three rig moves across 6 days (one 2-day location-to-location jack-up rig move, one 2-day demobilization effort, and one 2-day mobilization effort). For the location-to-location move, Hilcorp assumed 6 hours of mobile (towing) and 5 hours of stationary (holding and positioning) activities on the first day,

and 5 hours of the stationary activity (4 hours with three tugs and 1 hour with four tugs) on the second day to account for two positioning attempts (across 2 days). For the demobilization and mobilization efforts, Hilcorp assumed 9 hours of mobile and 5 hours of stationary (4 hours with three tugs and 1 hour with four tugs) activities on the first day, and 5 hours of stationary (4 hours with three tugs and 1 hour with four tugs) activities on the second day (across 2 days for each effort, for a total of 4 days of tugs under load with a jack-up rigs).

Potential take by Level A harassment was quantified by multiplying the ensonified Level A harassment areas per tugging activity scenario for each functional hearing group (table 8) by the estimated marine mammal densities (table 9) to get an estimate of exposures per day. This value was then multiplied by the number of days per move and the number of moves of that type of activity scenario. The estimated exposures by activity scenario were then summed to result in a number of exposures for all tugging activities. Based on this

analysis, only Dall's porpoise, harbor porpoise, and harbor seals had potential estimated take by Level A harassment that was greater than zero: 0.001, 0.018, and 0.006, respectively. For mobile tugging, the distances to the PTS thresholds for HF cetaceans and phocids are smaller than the overall size of the tug and rig configuration (*i.e.*, 8 m and 0 m, respectively), making it unlikely an animal will remain close enough to the tug engines to incur PTS. For stationary positioning of the jack up rig, the PTS isopleths for both the 3-tug and 4-tug scenarios are up to 749 m for HF cetaceans and up to 102 m for all other species, but calculated on the assumption that an animal would remain within several hundred meters of the jack-up rig for the full 5 hours of noise-producing activity. Given the location of the activity is not in an area known to be essential habitat for any marine mammal species with extreme site fidelity over the course of 2 days, in addition to the low exposure estimates for take by Level A

harassment (*i.e.*, ≤ 0.18 for all species), the mobile nature of marine mammals, and the general tendencies of most marine mammals to avoid loud noises, the occurrence of PTS is unlikely and thus not authorized for any species.

The ensoufied Level B harassment areas calculated per activity scenario (three tug stationary, four tug stationary, and three tug mobile for the location-to-location move and the demobilization and mobilization efforts) for a single day (see table 8) were multiplied by marine mammal densities to estimate takes by Level B harassment per day, acknowledging that there are contextual factors that make take less likely to result from this activity. This was then multiplied by the number of days per move and the number of moves of that type of activity scenario to arrive at the number of estimated exposures above 120 dB per activity type. These exposures by activity scenario were then summed to result in a number of exposures for all Hilcorp's tugging activities during the IHA period (table

10). As exposure estimates were calculated based on specific potential rig moves or well locations, the density value for CIBWs that was carried through the estimate was the higher density value for that particular location (table 9; *i.e.*, 0.00658 for locations in middle Cook Inlet and 0.01505 for locations in Trading Bay). There are no estimated exposures based on this method of calculation for California sea lions and Pacific white-sided dolphins because the assumed density of these species in the project area is 0.00 animals per km². Table 10 also indicates the number of takes, by Level B harassment, authorized. For species where the total calculated exposures above the Level B harassment threshold is less than the estimated group size for that species, NMFS adjusted the take authorized up to the anticipated group size. Explanations for species for which take authorized is greater than the calculated take are included below.

TABLE 10—CALCULATED EXPOSURES AND TOTAL AUTHORIZED TAKE BY LEVEL B HARASSMENT, BY SPECIES AND STOCK, FOR HILCORP'S TUGGING ACTIVITIES

Scenario	Location-to-location			Demobilization/mobilization			Total calculated Level B harassment exposures	Total authorized take by Level B harassment
	3 Mobile tugs	3 Stationary tugs	4 Stationary tugs	3 Mobile tugs	3 Stationary tugs	4 Stationary tugs		
Level B Harassment Area (km ²)	175.67	46.56	62.30	541.96	46.56	62.30		
Species	Calculated Exposures above the Level B Harassment threshold							
Humpback whale	0.324	0.029	0.010	2.001	0.057	0.019	2.440	3
Minke whale	0.005	0.000	0.000	0.031	0.001	0.000	0.037	3
Gray whale	0.012	0.001	0.000	0.072	0.002	0.001	0.088	3
Fin whale	0.048	0.004	0.001	0.299	0.009	0.003	0.364	2
Killer whale	0.108	0.009	0.003	0.663	0.019	0.006	0.808	10
Beluga whale	1.900	0.168	0.056	7.133	0.204	0.068	9.529	15
Dall's porpoise	0.024	0.002	0.001	0.148	0.004	0.001	0.180	6
Harbor porpoise	0.667	0.059	0.020	4.117	0.118	0.039	5.020	12
Pacific white-sided dolphin	0.000	0.000	0.000	0.000	0.000	0.000	0.000	3
Harbor seal	47.112	4.163	1.392	290.699	8.325	2.785	354.476	355
Steller sea lion	1.175	0.104	0.035	7.253	0.208	0.069	8.844	9
California sea lion	0.000	0.000	0.000	0.000	0.000	0.000	0.000	2

During annual aerial surveys conducted in Cook Inlet from 2000 to 2016, humpback group sizes ranged from 1 to 12 individuals, with most groups comprised of 1 to 3 individuals (Shelden *et al.*, 2013). Three humpback whales were observed in Cook Inlet during SAExploration's seismic study in 2015: two near the Forelands and one in Kachemak Bay (Kendall and Cornick, 2015). In total, 14 sightings of 38 humpback whales (ranging in group size from 1 to 14) were recorded in the 2019 Hilcorp lower Cook Inlet seismic survey in the fall (Fairweather Science, 2020). Two sightings totaling three individual humpback whales were recorded near Ladd Landing north of the Forelands on

the recent Harvest Alaska CIPL Extension Project (Sitkiewicz *et al.*, 2018). Based on documented observations from the CIPL Extension Project, which is the data closest to the specific geographic region, NMFS has authorized, three takes by Level B harassment for humpback whales, which is slightly greater than the calculated exposures using the methods described above (0.2440 takes by Level B harassment, table 10).

Minke whales usually travel in groups of two to three individuals (NMFS, 2023b). During Cook Inlet-wide aerial surveys conducted from 1993 to 2004, minke whales were encountered three times (1998, 1999, and 2006), all were

observed off Anchor Point (Shelden *et al.*, 2013, 2015b, and 2017). Several minke whales were recorded off Cape Starichkof in early summer 2013 during exploratory drilling (Owl Ridge, 2014), suggesting this location is regularly used by minke whales year-round. During Apache's 2014 survey, a total of two minke whale groups (three individuals) were observed. One sighting occurred southeast of Kalgin Island while the other sighting occurred near Homer (Lomac-MacNair *et al.*, 2014). SAExploration noted one minke whale near Tuxedni Bay in 2015 (Kendall and Cornick, 2015). Eight sightings of eight minke whales were recorded in the 2019 Hilcorp lower Cook Inlet seismic survey

(Fairweather Science, 2020). Based on these observations of group size and consistency of sightings in Cook Inlet, NMFS has authorized three takes by Level B harassment for minke whales (table 10). This is higher than the exposure estimate (*i.e.*, 0.037, table 10) to allow for the potential occurrence of a group, or several individuals, during the project period.

During Apache's 2012 seismic program, nine sightings of a total of nine gray whales were observed in June and July (Lomac-MacNair *et al.*, 2013). In 2014, one gray whale was observed during Apache's seismic program (Lomac-MacNair *et al.*, 2014) and in 2015, no gray whales were observed during SAExploration's seismic survey (Kendall and Cornick, 2015). No gray whales were observed during the 2018 CIPL Extension Project (Sitkiewicz *et al.*, 2018) or during the 2019 Hilcorp seismic survey in lower Cook Inlet (Fairweather Science, 2020). The greatest densities of gray whales in Cook Inlet occur from November through January and March through May; the former are southbound, the latter are northbound (Ferguson *et al.*, 2015). Based on this information, NMFS has authorized three takes by Level B harassment for gray whales. This is higher than the exposure estimate (*i.e.*, 0.088, table 10) to allow for the potential occurrence of a group, or several individuals, particularly during the fall shoulder season during the higher density periods mentioned above.

Fin whales most often travel alone, although they are sometimes seen in groups of two to seven individuals. During migration they may be in groups of 50 to 300 individuals (NMFS, 2010). During the NMFS aerial surveys in Cook Inlet from 2000 to 2018, 10 sightings of 26 estimated individual fin whales were recorded in lower Cook Inlet (Shelden *et al.*, 2013, 2015b, and 2017; Shelden and Wade, 2019). Wild *et al.* (2023) identified areas south of the mouth of Cook Inlet as a fin whale feeding BIA from June to September with an importance score of 1 and an intensity score of 1 (see Harrison *et al.* 2023 for more details regarding BIA scoring). As such, the potential for fin whales to occupy waters adjacent to the BIA during that time period and near the specified area may be higher. Acoustic detections of fin whales were recorded during passive acoustic monitoring in the fall of 2019 (Castellote *et al.*, 2020). Additionally, during seismic surveys conducted in 2019 by Hilcorp in lower Cook Inlet, 8 sightings of 23 fin whales were recorded in groups ranging in size from 1 to 15 individuals (Fairweather Science, 2020). The higher number of

sightings in a single year relative to the multi-year NMFS aerial surveys flown earlier in season each year suggests fin whales may be present in greater numbers in the fall. Given the possible presence of fin whales in the project area, NMFS has authorized two takes by Level B harassment for fin whales during Hilcorp's planned activities.

Killer whale pods typically consist of a few to 20 or more animals (NMFS, 2023c). During seismic surveys conducted in 2019 by Hilcorp in lower Cook Inlet, 21 killer whales were observed. Although also observed as single individuals, killer whales were recorded during this survey in groups ranging in size from two to five individuals (Fairweather Science, 2020). One killer whale group of two individuals was observed during the 2015 SAExploration seismic program near the North Foreland (Kendall and Cornick, 2015). Based on recent documented sightings, observed group sizes, and the established presence of killer whales in Cook Inlet, NMFS has authorized 10 takes by Level B harassment for killer whales. This will account for two sightings with a group size of five individuals, which represents the upper end of recorded group size in recent surveys conducted in Cook Inlet.

The total calculated exposures for CIBW was calculated to be 9.529 individuals based on recorded densities and estimated durations that tugs will be under load with a jack-up rig (table 10). The 2018 MML aerial survey (Shelden and Wade, 2019) reported a median beluga group size estimate of approximately 11 whales, although estimated group sizes were highly variable (ranging from 2 to 147 whales) as was the case in previous survey years (Boyd *et al.*, 2019). The median group size during 2021 and 2022 MML aerial surveys was 34 and 15, respectively, with variability between 1 and 174 between the years (Goetz *et al.*, 2023). Additionally, vessel-based surveys in 2019 found CIBW groups in the Susitna River Delta (roughly 24 km north of the Tyonek Platform) that ranged from 5 to 200 animals (McGuire *et al.*, 2022). Based on these observations, NMFS increased the estimated take calculated above and has authorized 15 takes by Level B harassment for CIBWs to account for 1 group of 15 individuals, the lower end of the 2022 median group size, or 2 observations of smaller-sized groups. While large groups of CIBWs have been seen in the Susitna River Delta region, they are not expected near Hilcorp's specified activity because groups of this size have not been observed or documented outside river

deltas in upper Cook Inlet; however, smaller groups (*i.e.*, around the 2022 median group size) could be traveling through to access the Susitna River Delta and other nearby coastal locations.

Dall's porpoises are usually found in groups averaging between 2 and 12 individuals (NMFS, 2023d). During seismic surveys conducted in 2019 by Hilcorp in lower Cook Inlet, Dall's porpoises were recorded in groups ranging from two to seven individuals (Fairweather Science, 2020). The 2012 Apache survey recorded two groups of three individual Dall's porpoises (Lomac-MacNair *et al.*, 2014). NMFS has authorized six takes by Level B harassment for Dall's porpoises. This is greater than the estimated exposure estimate for this species (0.180, table 10), but will allow for at least one group at the higher end of documented group size or a combination of small groups plus individuals.

Harbor porpoises are most often seen in groups of two to three (NMFS, 2023e); however, based on observations during project-based marine mammal monitoring, they can also occur in larger group sizes. Shelden *et al.* (2014) compiled historical sightings of harbor porpoises from lower to upper Cook Inlet that spanned from a few animals to 92 individuals. The 2018 CIPL Extension Project that occurred in middle Cook Inlet reported 29 sightings of 44 individuals (Sitkiewicz *et al.*, 2018). NMFS has authorized 12 takes by Level B harassment for harbor porpoises to allow for multiple group sightings during the specified activity. These authorized takes are greater than the exposure estimate calculated (5.020, table 10) but will account for the possibility of a couple sightings of small groups of harbor porpoises during Hilcorp's 6 days of tugging activity.

Recent data specific to Pacific white-sided dolphins within Cook Inlet are lacking, and the calculated exposure estimate is zero based on the paucity of sightings of this species in this region (table 10). However, Pacific-white sided dolphins have been observed in Cook Inlet. During an aerial survey in May 2014, Apache observed three Pacific white-sided dolphins near Kenai. No large groups of Pacific white-sided dolphins have been reported within Cook Inlet, although acoustic detections of several Pacific white-sided dolphins were recorded near Iniskin Bay during Hilcorp's 3D seismic survey in 2020. Prior to this, only one other survey in the last 20 years noted the presence of Pacific white-sided dolphins (three animals) within Cook Inlet. As a result of the dearth of current data on this species, an accurate density for Pacific

white-sided dolphins in the specific project region has not been generated. However, based on the possibility of this species in the project area, NMFS has authorized three takes by Level B harassment for Pacific white-sided dolphins, the maximum number of Pacific white-sided dolphins that have been recorded in the somewhat recent past are present in Cook Inlet. This is consistent with NMFS' IHA for Hilcorp's previous tugging activities (87 FR 62364, October 14, 2022).

Harbor seals are often solitary in water but can haul out in groups of a few to thousands (Alaska Department of Fish and Game (ADF&G), 2022). Given their presence in the study region, NMFS has authorized 355 takes by Level B harassment for harbor seals, which is commensurate with the calculated exposure estimate based on harbor seal densities and Hilcorp's estimated durations for tugging activities (table 10).

Steller sea lions tend to forage individually or in small groups (Fiscus and Baines, 1966) but have been documented feeding in larger groups when schooling fish were present (Gende *et al.*, 2001). Steller sea lions have been observed during marine mammal surveys conducted in Cook Inlet. In 2012, during Apache's 3D Seismic survey, three sightings of approximately four individuals in upper Cook Inlet were reported (Lomac-MacNair *et al.*, 2013). Marine mammal observers associated with Buccaneer's drilling project off Cape Starichkof observed seven Steller sea lions during the summer of 2013 (Owl Ridge, 2014). During SAExploration's 3D Seismic Program in 2015, four Steller sea lions were observed in Cook Inlet. One sighting occurred between the West and East Forelands, one occurred near Nikiski, and one occurred northeast of the North Foreland in the center of Cook Inlet (Kendall and Cornick, 2015). During NMFS CIWB aerial surveys from 2000 to 2016, 39 sightings of 769 estimated individual Steller sea lions in lower Cook Inlet were reported (Shelden *et al.*, 2017). During a waterfowl survey in upper Cook Inlet, an observer documented an estimated 25 Steller sea lions hauled out at low tide in the Lewis River on the west side of Cook Inlet (K. Lindberg, pers. comm., August 15, 2022). Hilcorp reported one sighting of two Steller sea lions while conducting pipeline work in upper Cook Inlet (Sitkiewicz *et al.*, 2018). Commensurate with exposure estimates shown in table 10, NMFS has authorized nine takes by Level B harassment for Steller sea lions.

While California sea lions are uncommon in the specific geographic

region, two were seen during the 2012 Apache seismic survey in Cook Inlet (Lomac-MacNair *et al.*, 2013). California sea lions in Alaska are typically alone but may be seen in small groups usually associated with Steller sea lions at their haulouts and rookeries (Maniscalco *et al.*, 2004). Despite the estimated exposure estimate being zero due to the lack of sightings during aerial surveys, NMFS has authorized two takes by Level B harassment for California sea lions to account for the potential to see up to two animals over the course of the season. This is consistent with NMFS authorization for Hilcorp's previous tugging activities (87 FR 62364, October 14, 2022).

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stock for taking for certain subsistence uses. NMFS regulations require applicants for ITAs to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat, as well as subsistence uses. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost and impact on operations.

There is a discountable potential for marine mammals to incur PTS from the project, as source levels are relatively low, non-impulsive, and animals would have to remain at very close distances for multiple hours to accumulate acoustic energy at levels that could damage hearing. Therefore, we do not believe there is reasonable potential for Level A harassment and we are not authorizing it. Hilcorp will implement a number of mitigation and related monitoring measures designed to reduce the potential for and severity of Level B harassment and further reduce the already insignificant potential for Level A harassment.

The tugs towing a jack-up rig are not able to shut down while transiting, holding, or positioning the rig. Hilcorp will maneuver the tugs towing the jack-up rig such that they maintain a consistent speed (approximately 4 knots [7 km/hr]) and avoid multiple changes of speed and direction to make the course of the vessels as predictable as possible to marine mammals in the surrounding environment, characteristics that are expected to be associated with a lower likelihood of disturbance.

Hilcorp will use two NMFS-approved PSOs to observe and implement clearance zone procedures as described below (*i.e.*, pre-clearance monitoring). If a marine mammal(s) is observed within the relevant clearance zone during the pre-clearance monitoring period, tugging activities will be delayed, unless the delay interferes with the safety of working conditions. The pre-clearance zones include a distance of 1.5 km for non-CIBWs and any distance for CIBWs (note: transitioning from towing to positioning without shutting down will not be considered commencing a new operational activity). The 1.5 km clearance zone is consistent with previous authorizations for tugging activities (87 FR 62364, October 14, 2022), and was determined to be appropriate as it is approximately twice as large as the largest Level A harassment zone (table 9) and is a reasonable distance within which cryptic species (*e.g.*, porpoises, pinnipeds) could be observed. The larger clearance zone for CIBWs is a new measure aimed to further minimize any potential impacts from tugs under load with a jack-up rig on this species.

During daylight hours, for 30 minutes prior to commencing new operational activities, or if there is a 30-minute lapse in operational activities, two PSOs will observe and implement clearance zones procedures as described below (*i.e.*, pre-clearance monitoring); Note: transitioning from towing to positioning

without shutting down will not be considered commencing a new operational activity. If no marine mammals are observed within the relevant clearance zones described above during this 30 minute pre-clearance monitoring period, tugging activities may commence. If a CIBW(s) is observed at any distance during those 30 minutes, operations may not commence until the PSO(s) confirm that the CIBW(s) or any other CIBW(s) has not been observed for 30 minutes, unless the delay interferes with the safety of working conditions. If a non-CIBW marine mammal(s) is observed within the relevant clearance zone (*i.e.*, 1.5 km) during the 30 minute pre-clearance monitoring period, tugging activities will not commence until the PSO(s) observe that the non-CIBW animal(s) is outside of and on a path away from the clearance zone, or 30 minutes have elapsed without observing the non-CIBW marine mammal.

During nighttime hours or low/no-light conditions, NVDs shown to be effective at detecting marine mammals in low-light conditions (*e.g.*, Portable Visual Search-7 model, or similar) will be provided to PSOs to aid in their monitoring of marine mammals. Every effort will be made to observe that the relevant clearance zone is free of marine mammals by using night-vision devices and or the naked eye, however it may not always be possible to see and clear the entire clearance zones prior to nighttime transport. Prior to commencing new operational activities during nighttime hours or if there is a 30-minute lapse in operational activities in low/no-light conditions, the two PSOs will observe and implement clearance zone procedures as described below while using NVDs (*i.e.*, pre-clearance monitoring). If a marine mammal(s) is observed during the 30 minute pre-clearance monitoring period, operations may not commence until the PSO(s) observe that one of the following conditions is met, unless the delay interferes with the safety of working conditions: (1) the animal(s) is outside of the observable area; or (2) 30 minutes have elapsed without observing the marine mammal. If no marine mammals are observed during the 30 minute pre-clearance monitoring period, tugs may commence towing, positioning, or holding the jack-up rig.

Hilcorp will operate with the tide, resulting in a low power output from the tugs towing the jack-up rig, unless human safety or equipment integrity are at risk. Due to the nature of tidal cycles in Cook Inlet, it is possible that the most favorable tide for the towing operation will occur during nighttime hours.

Hilcorp will only operate the tugs towing the jack-up rigs at night if the nighttime operations result in a lower power output from the tugs by operating with a favorable tide.

Out of concern for potential disturbance to CIBWs in sensitive and essential habitat, Hilcorp will maintain a distance of 2.4 km from the mean lower-low water (MLLW) line of the Susitna River Delta (Beluga River to the Little Susitna River) between April 15 and November 15. The dates of applicability of this exclusion area have been expanded based on new available science, including visual surveys and acoustic studies, which indicate that substantial numbers of CIBWs continue to occur in the Susitna Delta area through at least mid-November (M. Castellote, pers. comm., T. McGuire, pers. comm.). In addition, Hilcorp will coordinate with local Tribes as described in its Stakeholder Engagement Plan (see appendix C in Hilcorp's application), notify the communities of any changes in the operation, and take action to avoid or mitigate impacts to subsistence harvests.

For transportation of a jack-up rig to or from the Tyonek platform, in addition to the two PSOs stationed on the rig during towing, one additional PSO will be stationed on the Tyonek platform to monitor for marine mammals. The PSO will be on-watch for at least 1 hour before tugs are expected to arrive (scheduled to approach the estimated 120-dB isopleth).

Based on our evaluation of our proposed measures and consideration of public comments, NMFS has determined that the required mitigation and related monitoring measures (see below for additional descriptions) provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for subsistence uses.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be

present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Hilcorp will abide by all monitoring and reporting measures contained within the IHA and their Marine Mammal Monitoring and Mitigation Plan (see appendix D of Hilcorp's application). A summary of those measures and additional requirements from NMFS is provided below.

Hilcorp must monitor the project area once tugging activities are underway to the maximum distance possible based on the required number of PSOs, required monitoring locations, and environmental conditions. PSOs must also conduct monitoring for marine mammals during the pre-clearance monitoring periods, through 30 minutes post-completion of any tugging activity each day, and after each stoppage of 30 minutes or greater.

A minimum of two NMFS-approved PSOs must be stationed on the tug or jack-up rig for monitoring purposes for the entirety of jack-up rig towing,

holding, and positioning operations and pre-clearance monitoring. PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods. At least one PSO must have prior experience performing the duties of a PSO during an activity pursuant to a NMFS-issued ITA or Letter of Concurrence. Other PSOs may substitute other relevant experience (including relevant Alaska Native traditional knowledge), education (degree in biological science or related field), or training for prior experience performing the duties of a PSO.

PSOs must also have the following additional qualifications:

(a) The ability to conduct field observations and collect data according to assigned protocols;

(b) Experience or training in the field identification of marine mammals, including the identification of behaviors;

(c) Sufficient training, orientation, or experience with the tugging operation to provide for personal safety during observations;

(d) Sufficient writing skills to record required information including but not limited to the number and species of marine mammals observed; dates and times when tugs were under load with the jack-up rig; dates, times, and reason for implementation of mitigation (or why mitigation was not implemented when required); and marine mammal behavior; and

(e) The ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

PSOs must be positioned aboard the tug or the jack-up-rig at the best practical vantage points that are determined to be safe, ideally an elevated stable platform from which a single PSO would have an unobstructed 360-degree view of the water or a total 360-degree view between all PSOs on-watch. Generally, one PSO will be on the port side and one PSO will be on the starboard side. Additionally, when towing the jack-up rig to the Tyonek platform, an additional PSO must be stationed on the Tyonek platform 1 hour before tugs are expected to arrive (*i.e.*, scheduled to approach the estimated 120-dB isopleth) to monitor for marine mammals. PSOs may use a combination of equipment to scan the monitoring area and to verify the required monitoring distance from the project site, including the naked eye, 7 by 50 binoculars, and NMFS approved NVDs for low light and nighttime operations.

PSOs must be in communication with all vessel captains via VHF radio and/or cell phones at all times and alert vessel captains to all marine mammal sightings relative to the vessel location.

Hilcorp must submit interim monthly reports for all months in which tugging activities occur. Monthly reports will be due 14 days after the conclusion of each calendar month, and must include a summary of marine mammal species and behavioral observations, delays, and tugging activities completed (*i.e.*, tugs towing, holding, or positioning the jack-up rig). They also must include an assessment of the amount of tugging remaining to be completed, in addition to the number of CIBWs observed within estimated harassment zones to date.

A draft final summary marine mammal monitoring report must be submitted to NMFS within 90 days after the completion of the tug towing jack-up rig activities for the year or 60 calendar days prior to the requested issuance of any subsequent IHA for similar activity at the same location, whichever comes first. The draft summary report must include an overall description of all work completed, a narrative regarding marine mammal sightings, and associated marine mammal observation data sheets (data must be submitted electronically in a format that can be queried such as a spreadsheet or database). Specifically, the summary report must include:

- Date and time that monitored activity begins or ends;
- Activities occurring during each observation period, including (a) the type of activity (towing, holding, positioning), (b) the total duration of each type of activity, (c) the number of attempts required for positioning, (d) when nighttime operations were required, and (e) whether towing against the tide was required;

• PSO locations during marine mammal monitoring;

• Environmental conditions during monitoring periods (at the beginning and end of the PSO shift and whenever conditions change significantly), including Beaufort sea state, tidal state, and any other relevant weather conditions including cloud cover, fog, sun glare, overall visibility to the horizon, and estimated observable distance;

- Upon observation of a marine mammal, the following information:
 - Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting;
 - Time of sighting;
 - Identification of the animal(s) (*e.g.*, genus/species, lowest possible

taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species;

○ Distance and location of each observed marine mammal relative to the tug boats for each sighting;

○ Estimated number of animals (min/max/best estimate);

○ Estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*);

○ Animal's closest point of approach and estimated time spent within the harassment zone;

○ Description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state such as ceasing feeding, changing direction, flushing, or breaching);

• Number of marine mammals detected within the harassment zones, by species; and

• Detailed information about implementation of any mitigation (*e.g.*, delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft summary report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

In the event that personnel involved in Hilcorp's tugging activities discover an injured or dead marine mammal, Hilcorp must report the incident to the Office of Protected Resources, NMFS (PR.ITP.MonitoringReports@noaa.gov, itp.tyson.moore@noaa.gov), and to the Alaska Regional Stranding Coordinator as soon as feasible. If the death or injury was clearly caused by the specified activity, Hilcorp must immediately cease the specified activities until NMFS is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the IHA. Hilcorp must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude and longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);

- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS’ implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the discussion of our analysis applies to all the species listed in table 10, except CIBWs, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. For CIBWs, there are potentially meaningful differences in anticipated responses to activities, impact of expected take on the population, or impacts on habitat; therefore, we provide a separate independent detailed analysis for CIBWs following the analysis for other species for which we authorize take.

NMFS has identified several key factors to assess whether potential impacts associated with a specified activity should be considered negligible.

These include (but are not limited to) the type and magnitude of taking, the amount and importance of the available habitat for the species or stock that is affected, the duration of the anticipated effect on the individuals, and the status of the species or stock. The potential effects of the specified activity on humpback whales, minke whales, gray whales, fin whales, killer whales, Dall’s porpoises, harbor porpoises, Pacific white-sided dolphins, Steller sea lions, harbor seals, and California sea lions are discussed below. These factors also apply to CIBWs; however, an additional analysis for CIBWs is provided in a separate sub-section below.

Tugs under load with the jack-up rig, as outlined previously, have the potential to disturb or displace marine mammals, and the number of authorized takes that could potentially result from Hilcorp’s activities have been identified above in the Estimated Take section. Hilcorp’s planned activities and associated impacts will occur within a limited, confined area of the affected species or stocks’ range over a total of 6 days between September 24, 2024, and September 23, 2025. The intensity and duration of take by Level B harassment will be minimized through use of mitigation measures described herein. In addition, NMFS does not anticipate that serious injury or mortality will occur as a result of Hilcorp’s planned activity given the nature of the activity, even in the absence of required mitigation.

Exposures to elevated sound levels produced during tugs under load with the jack-up rig may cause behavioral disturbance of some individuals within the vicinity of the sound source. Behavioral responses of marine mammals to tugs under load with the jack-up rig are expected to be mild, short term, and temporary. Effects on individuals that are taken by Level B harassment, as enumerated in the Estimated Take of Marine Mammals section, on the basis of reports in the literature as well as monitoring from other similar activities conducted by Hilcorp (Horsley and Larson, 2023), will likely be limited to behavioral response such as increased swimming speeds, changing in directions of travel and diving and surfacing behaviors, increased respiration rates, or decreased foraging (if such activity were occurring) (Ridgway *et al.*, 1997; Nowacek *et al.*, 2007; Thorson and Reyff, 2006; Kendall and Cornick, 2015; Goldbogen *et al.*, 2013b; Blair *et al.*, 2016; Wisniewska *et al.*, 2018; Piwetz *et al.*, 2021). Marine mammals within the 120-dB isopleths may not present any visual cues they are disturbed by activities, or they could

become alert, avoid the area, leave the area, or have other mild responses that are not observable such as increased stress levels (*e.g.*, Rolland *et al.*, 2012; Bejder *et al.*, 2006; Rako *et al.*, 2013; Pirodda *et al.*, 2015; Pérez-Jorge *et al.*, 2016). They may also exhibit increased vocalization rates (*e.g.*, Dahlheim, 1987; Dahlheim and Castellote, 2016), louder vocalizations (*e.g.*, Frankel and Gabriele, 2017; Fournet *et al.*, 2018), alterations in the spectral features of vocalizations (*e.g.*, Castellote *et al.*, 2012), or a cessation of communication signals (*e.g.*, Tsujii *et al.*, 2018). However, as described in the Potential Effects of Specified Activities on Marine Mammals and Their Habitat section of the **Federal Register** notice of the proposed IHA (89 FR 60164, July 24, 2024), marine mammals observed near Hilcorp’s planned activities have shown little to no observable reactions to tugs under load with a jack-up rig (Horsley and Larson, 2023).

Tugs towing, holding, and positioning a jack-up rig are slow-moving as compared to typical recreational and commercial vessel traffic. Assuming an animal is stationary, exposure from the moving tug configuration (which comprises most of the tug activity being considered) will be on the order of minutes in any particular location. The slow, predictable, and generally straight path of this activity is expected to further lessen the likelihood that sound exposures at the expected levels will result in the harassment of marine mammals, though the potential takes based on straight calculations have nonetheless been considered in the analysis. Also, this slow transit along a predictable path is planned in an area of routine vessel traffic where many large vessels move in slow straight-line paths, and some individuals are expected to be habituated to these sorts of sounds. While it is possible that animals may swim around the project area, avoiding closer approaches to the boats, we do not expect them to abandon any intended path. Further, most animals present in the region will likely be transiting through the area; therefore, any potential exposure is expected to be brief. Based on the characteristics of the sound source and the other activities regularly encountered in the area, it is unlikely Hilcorp’s planned activities will be of a duration or intensity expected to result in impacts on reproduction or survival.

Further, most of the species present in the region will only be present temporarily based on seasonal patterns or during transit between other habitats. These temporarily present species will be exposed to even shorter periods of

noise-generating activity, further decreasing the impacts. Most likely, individual animals will simply move away from the sound source and be temporarily displaced from the area. Takes also have the potential to occur during important feeding times. However, the project area represents a small portion of available foraging habitat and impacts on marine mammal feeding for all species should be minimal.

We anticipate that any potential reactions and behavioral changes are expected to subside quickly when the exposures cease and, therefore, we do not expect long-term adverse consequences from Hilcorp's planned activities for individuals of any species. The intensity of Level B harassment events will be minimized through use of mitigation measures described herein, which were not quantitatively factored into the take estimates. Hilcorp will use PSOs to monitor for marine mammals before commencing any tugging activity, which will minimize the potential for marine mammals to be present within the 120-dB isopleth when tugs are under load, further reducing the likely amount of any potential Level B harassment. Further, given the absence of any major rookeries or areas of known biological significance for marine mammals (e.g., foraging hot spots) within the estimated harassment zones (other than critical habitat and a BIA for CIBWs as described below), we predict that potential takes by Level B harassment will have an inconsequential short-term effect on individuals and will not result in population-level impacts.

Theoretically, repeated, sequential exposure to elevated noise from tugs under load with a jack-up rig over a long duration could result in more severe impacts to individuals that could affect individual fitness or reproductive success (via sustained or repeated disruption of important behaviors such as feeding, resting, traveling, and socializing; Southall *et al.*, 2007). Alternatively, marine mammals exposed to repetitious sounds may become habituated, desensitized, or tolerant after initial exposure to these sounds (reviewed by Richardson *et al.*, 1995; Southall *et al.*, 2007). Cook Inlet is a regional hub of marine transportation and is used by various classes of vessels, including container ships, bulk cargo freighters, tankers, commercial and sport-fishing vessels, and recreational vessels. Off-shore vessels, tug vessels, and tour boats represent 86 percent of the total operating days for vessels in Cook Inlet (BOEM, 2016). Given that marine mammals still frequent and use Cook Inlet despite being exposed to

anthropogenic sounds such as those produced by tug boats and other vessels across many years, and that it is unlikely that any individual would be exposed to repeated, sequential exposures or repetitious sounds from Hilcorp's activities, no impacts to the reproduction or survival of any marine mammal individuals from the additional noise produced by tugs under load with a jack-up rig are anticipated. The absence of any pinniped haul outs or other known home-ranges in the planned action area further decreases the likelihood of any more severe energetic impacts that might affect reproduction or survival.

Hilcorp's planned activities are also not expected to have significant adverse effects on any marine mammal habitat as no physical impacts to habitat are anticipated to result from the specified activities and any impacts to marine mammal habitat (*i.e.*, elevated sound levels) will be temporary. In addition to being temporary and short in overall duration, the acoustic footprint of the planned activity is small relative to the overall distribution of the animals in the area and their use of the area. Additionally, the habitat within the estimated acoustic footprint is not known to be heavily used by marine mammals.

Impacts to marine mammal prey species are also expected to be minor and temporary and to have, at most, short-term effects on foraging of individual marine mammals, and likely no effect on the populations of marine mammals as a whole. Overall, as described above, the area anticipated to be impacted by Hilcorp's planned activities is very small compared to the available surrounding habitat and does not include habitat of particular importance to marine mammals. The most likely impact to prey will be temporary behavioral avoidance of the immediate area. When tugs are under load with the jack-up rig, it is expected that some fish will temporarily leave the area of disturbance (e.g., Nakken, 1992; Olsen, 1979; Ona and Godo, 1990; Ona and Toresen, 1988), thus impacting marine mammals' foraging opportunities in a limited portion of their foraging range. But, because of the relatively small area of the habitat that may be affected, and lack of any foraging habitat of particular importance, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Finally, Hilcorp will minimize potential exposure of marine mammals to elevated noise levels by delaying tugging activities if CIBWs are observed

at any distance or if non-CIBW marine mammals are observed within 1.5 km during the pre-clearance monitoring period. Hilcorp will also implement vessel maneuvering measures to reduce the likelihood of disturbing marine mammals during any periods when marine mammals may be present near the vessels. Lastly, Hilcorp will also reduce the impact of their activity by conducting tugging operations with favorable tides whenever feasible.

In summary and as described above, the following factors (with additional analyses for CIBWs included below) primarily support our determinations that the impacts resulting from the activities described for this IHA are not expected to affect any individual marine mammal's fitness for survival or reproduction, and thus is not expected to adversely affect the species or stocks through effects on annual rates of recruitment or survival:

- No takes by mortality, serious injury, or Level A harassment are anticipated or authorized;
- Exposure, and resulting impacts, will likely be brief given the short duration of the specified activity and the transiting behavior of marine mammals in the action area;
- Marine mammal densities are low in the project area; therefore, there will not be substantial numbers of marine mammals exposed to the noise from the project compared to the affected population sizes;
- Take will not occur in places and/or times where take is more likely to accrue to impacts on reproduction or survival, such as within ESA-designated or proposed critical habitat, BIAs (other than for CIBWs as described below), or other habitats critical to recruitment or survival (e.g., rookery);
- The project area represents a very small portion of the available foraging area for all potentially impacted marine mammal species;
- Take will only occur within middle Cook Inlet and Trading Bay—a limited, confined area of any given stock's home range;
- Monitoring reports from previous projects where tugs were under load with a jack-up rig in Cook Inlet have documented little to no observable effect on individuals of the same species impacted by the specified activities;
- The required mitigation is expected to be effective in reducing the effects of the specified activity by minimizing the numbers of marine mammals exposed to sound and the intensity of the exposures; and
- The intensity of anticipated takes by Level B harassment is low for all stocks consisting of, at worst, temporary

modifications in behavior, and will not be of a duration or intensity expected to result in impacts on reproduction or survival.

Cook Inlet Beluga Whales. For CIBWs, we further discuss our negligible impact findings in addition to the findings discussed above for all species in the context of potential impacts to this endangered stock based on our evaluation of the take authorized (table 10).

All tugging activities will be done in a manner implementing best management practices to preserve water quality, and no work will occur around creek mouths or river systems leading to prey abundance reductions. In addition, no physical structures will restrict passage, though impacts to the acoustic habitat are relevant and discussed here. While the specified activity will occur within CIBW Critical Habitat Area 2, and the CIBW small and resident BIA (see the Description of Marine Mammals in the Area of Specified Activities section in the notice for the proposed IHA; 89 FR 60164, July 24, 2024), monitoring data from Hilcorp's activities suggest that the presence of tugs under load with a jack-up rig do not discourage CIBWs from transiting throughout Cook Inlet and between critical habitat areas and that the whales do not abandon critical habitat areas (Horsley and Larson, 2023). In addition, large numbers of CIBWs have continued to use Cook Inlet and pass through the area, likely traveling to critical foraging grounds found in upper Cook Inlet, while noise-producing anthropogenic activities, including vessel use, have taken place during the past two decades (e.g., Shelden *et al.*, 2013, 2015b, 2017, 2022; Shelden and Wade, 2019; Geotz *et al.*, 2023). These findings are not surprising as food is a strong motivation for marine mammals. As described in Forney *et al.* (2017), animals typically favor particular areas because of their importance for survival (e.g., feeding or breeding), and leaving may have significant costs to fitness (reduced foraging success, increased predation risk, increased exposure to other anthropogenic threats). Consequently, animals may be highly motivated to maintain foraging behavior in historical foraging areas despite negative impacts (e.g., Rolland *et al.*, 2012).

Generation of sound may result in avoidance behaviors that will be limited in time and space relative to the larger availability of important habitat areas in Cook Inlet; however, the area ensonified by sound from the specified activity is anticipated to be small compared to the overall available critical habitat for CIBWs to feed and travel. Therefore, the

specified activity will not create a barrier to movement through or within important areas. We anticipate that disturbance to CIBWs will manifest in the same manner as other marine mammals described above (i.e., increased swimming speeds, changes in the direction of travel and dive behaviors, increased respiration rates, decreased foraging (if such activity were occurring), or alterations to communication signals). We do not believe exposure to elevated noise levels during transit past tugging activity will have adverse effects on individuals' fitness for reproduction or survival.

Although data demonstrate that CIBWs are not abandoning the planned project area during anthropogenic activities, results of an expert elicitation (EE) at a 2016 workshop, which predicted the impacts of noise on CIBW survival and reproduction given a specific amount of lost foraging opportunities, helped to inform our assessment of impacts on this stock. The 2016 EE workshop used conceptual models of an interim population consequences of disturbance (PCoD) for marine mammals (NRC, 2005; New *et al.*, 2014; Tollit *et al.*, 2016) to help in understanding how noise-related stressors might affect vital rates (survival, birth rate and growth) for CIBW (King *et al.*, 2015). NMFS (2016b) suggests that the main direct effects of noise on CIBWs are likely to be through masking of vocalizations used for communication and prey location and habitat degradation. The 2016 workshop on CIBWs was specifically designed to provide regulators with a tool to help understand whether chronic and acute anthropogenic noise from various sources and projects are likely to be limiting recovery of the CIBW population. The full report can be found at <https://www.smruconsulting.com/publications/> with a summary of the expert elicitation portion of the workshop below.

For each of the noise effect mechanisms chosen for the EE, the experts provided a set of parameters and values that determined the forms of a relationship between the number of days of disturbance a female CIBW experiences in a particular period and the effect of that disturbance on her energy reserves. Examples included the number of days of disturbance during the period April, May, and June that would be predicted to reduce the energy reserves of a pregnant CIBW to such a level that she is certain to terminate the pregnancy or abandon the calf soon after birth, the number of days of disturbance in the period April–September required to reduce the energy reserves of a

lactating CIBW to a level where she is certain to abandon her calf, and the number of days of disturbance where a female fails to gain sufficient energy by the end of summer to maintain herself and her calf during the subsequent winter. Overall, median values ranged from 16 to 69 days of disturbance depending on the question. However, for this elicitation, a “day of disturbance” was defined as any day on which an animal loses the ability to forage for at least one tidal cycle (i.e., it forgoes 50–100 percent of its energy intake on that day). The day of disturbance considered in the context of the report is notably more severe than any Level B harassment expected to result from these activities, which as described is expected to be comprised predominantly of temporary modifications in the behavior of individual CIBWs (e.g., faster swim speeds, longer dives, decreased sighting durations, alterations in communication). Also, NMFS has authorized 15 instances of take, with the instances representing disturbance events within a day—this means that either 15 different individual CIBWs are disturbed on no more than 1 day each, or some lesser number of individuals may be disturbed on more than 1 day, but with the product of individuals and days not exceeding 15. Given the overall authorized take, and the short duration of the specified activities (i.e., 6 days), it is unlikely that any one CIBW will be disturbed on more than a couple of days. Lastly, even if a CIBW was exposed every day of Hilcorp's planned activities, these activities are only planned for 6 days, and thus do not fall into the expected range of days of disturbance expected to elicit an effect on energy reserves as determined by the experts as described above (i.e., 16 to 19 days). Further, Hilcorp will implement mitigation measures specific to CIBWs whereby they will not begin tugging activities should a CIBW be observed at any distance. While Level B harassment (behavioral disturbance) is authorized, this measure, along with other mitigation measures described herein, will limit the severity of the effects of that Level B harassment to behavioral changes such as increased swim speeds, changes in diving and surfacing behaviors, and alterations to communication signals, not the loss of foraging capabilities. Finally, take by mortality, serious injury, or Level A harassment of CIBWs is not anticipated or authorized.

In summary and as described above, the additional following factors primarily support our determination

that the impacts resulting from this activity are not expected to adversely affect the CIBWs through effects on annual rates of recruitment or survival:

- The area of exposure will be limited to habitat primarily used for transiting, and not areas known to be of particular importance for feeding or reproduction;
- The activities are not expected to result in CIBWs abandoning critical habitat nor are they expected to restrict passage of CIBWs within or between critical habitat areas; and
- Any disturbance to CIBWs is expected to be limited to temporary modifications in behavior, and will not be of a duration or intensity expected to result in impacts on reproduction or survival.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into

consideration the implementation of the required monitoring and mitigation measures, NMFS finds that the total marine mammal take from the planned specified activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the

predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers (see 86 FR 5322, January 19, 2021). Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

For all stocks whose abundance estimate is known, the amount of authorized taking is less than one-third of the best available population abundance estimate (in fact it is less than 2 percent for all stocks, except for CIBWs whose authorized take is for up to 5.38 percent of the stock; see table 11). The numbers of animals authorized to be taken are small relative to the relevant species or stock abundances even if each estimated take occurred to a new individual.

TABLE 11—AUTHORIZED TAKE AS A PERCENTAGE OF STOCK ABUNDANCE

Species	Total amount of take authorized	Stock	Abundance (N _{best} ¹)	Percent of stock
Humpback whale	3	Hawaii (Hawaii DPS)	11,278	0.03
		Mexico-North Pacific (Mexico DPS)	¹ N/A	N/A
		Western North Pacific	1,084	0.28
Minke whale	3	Alaska	² N/A	N/A
Gray whale	3	Eastern Pacific	26,960	0.01
Fin whale	2	Northeast Pacific	³ UND	N/A
Killer whale	10	Eastern North Pacific Alaska Resident	1,920	0.52
		Eastern North Pacific Gulf of Alaska, Aleutian Islands, and Bering Sea Transient	587	1.7
Beluga whale	15	Cook Inlet	⁴ 279	5.38
Dall's porpoise	6	Alaska	⁵ UND	N/A
Harbor porpoise	12	Gulf of Alaska	31,046	0.04
Pacific white-sided dolphin	3	North Pacific	26,880	0.01
Harbor seal	365	Cook Inlet/Shelikof	28,411	1.29
Steller sea lion	9	Western U.S	⁶ 49,932	0.02
California sea lion	2	U.S	257,606	<0.01

¹ Abundance estimates are based upon data collected more than 8 years ago and, therefore, current estimates are considered unknown.

² Reliable population estimates are not available for this stock. Please see Friday *et al.* (2013) and Zerbini *et al.* (2006) for additional information on numbers of minke whales in Alaska.

³ The best available abundance estimate for this stock is not considered representative of the entire stock as surveys were limited to a small portion of the stock's range.

⁴ On June 15, 2023, NMFS released an updated abundance estimate for endangered CIBWs in Alaska (Goetz *et al.*, 2023). Data collected during NOAA Fisheries' 2022 aerial survey suggest that the whale population is stable or may be increasing slightly. Scientists estimated that the population size is between 290 and 386, with a median best estimate of 331. In accordance with the MMPA, this population estimate will be incorporated into the CIBW SAR, which will be reviewed by an independent panel of experts, the Alaska Scientific Review Group. After this review, the SAR will be made available as a draft for public review before being finalized. When the number of instances of takes is compared to this median abundance, the percent of the stock authorized is 4.53 percent.

⁵ The best available abundance estimate is likely an underestimate for the entire stock because it is based upon a survey that covered only a small portion of the stock's range.

⁶ Nest is the best estimate of counts, which have not been corrected for Steller sea lions at sea during abundance surveys.

Abundance estimates for the Mexico-North Pacific stock of humpback whales are based upon data collected more than 8 years ago and, therefore, current estimates are considered unknown (Young *et al.*, 2023). The most recent minimum population estimates (N_{MIN}) for this population include an estimate of 2,241 individuals between 2003 and 2006 (Martinez-Aguilar, 2011) and 766 individuals between 2004 and 2006

(Wade, 2021). NMFS' Guidelines for Assessing Marine Mammal Stocks suggest that the N_{MIN} estimate of the stock should be adjusted to account for potential abundance changes that may have occurred since the last survey and provide reasonable assurance that the stock size is at least as large as the estimate (NMFS, 2023a). The abundance trend for this stock is unclear; therefore, there is no basis for adjusting these

estimates (Young *et al.*, 2023). Assuming the population has been stable, and that the 4 authorized takes of humpback whale will all be of the Mexico-North Pacific stock, this represents small numbers of this stock (0.18 percent of the stock assuming a N_{MIN} of 2,241 individuals and 0.52 percent of the stock assuming an N_{MIN} of 766 individuals).

A lack of an accepted stock abundance value for the Alaska stock of minke whale did not allow for the calculation of an expected percentage of the population that will be affected. The most relevant estimate of partial stock abundance is 1,233 minke whales in coastal waters of the Alaska Peninsula and Aleutian Islands (Zerbini *et al.*, 2006). Given three authorized takes by Level B harassment for the stock, comparison to the best estimate of stock abundance shows, at most, less than 1 percent of the stock is expected to be impacted.

There is no stock-wide abundance estimate for Northeast Pacific fin whales. However, Young *et al.* (2022) estimate the minimum stock size for the areas surveyed is 2,554. Given two authorized takes by Level B harassment for the stock, comparison to the minimum population estimate shows, at most, less than 1 percent of the stock is expected to be impacted.

The Alaska stock of Dall's porpoise has no official NMFS abundance estimate for this area, as the most recent estimate is greater than 8 years old. As described in the 2022 Alaska SAR (Young *et al.*, 2023) the minimum population estimate is assumed to correspond to the point estimate of the 2015 vessel-based abundance computed by Rone *et al.* (2017) in the Gulf of Alaska ($N = 13,110$; $CV = 0.22$). Given six authorized takes by Level B harassment for the stock, comparison to the minimum population estimate shows, at most, less than 1 percent of the stock is expected to be impacted.

Based on the analysis contained herein of the planned activity (including the required mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population sizes of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

In order to issue an IHA, NMFS must find that the specified activity will not have an "unmitigable adverse impact" on the subsistence uses of the affected marine mammal species or stocks by Alaskan Natives. NMFS has defined "unmitigable adverse impact" in 50 CFR 216.103 as an impact resulting from the specified activity: (1) That is likely to reduce the availability of the species to a level insufficient for a harvest to meet subsistence needs by: (i) Causing the marine mammals to abandon or avoid hunting areas; (ii) Directly displacing subsistence users; or (iii) Placing physical barriers between the marine mammals and the subsistence hunters;

and (2) That cannot be sufficiently mitigated by other measures to increase the availability of marine mammals to allow subsistence needs to be met.

Hilcorp's tugging activities will occur offshore and north of Kenai and the Village of Salmatof. The last ADF&G subsistence survey conducted in Kenai was in 1998 (Fall *et al.*, 2000). In the greater Kenai area, an estimated 13 harbor seals and no sea lions were harvested in 1988 by an estimated 10 households. In the Kenai area, estimated harbor seal harvest has ranged between 13 (1998) and 35 (1997) animals. In 1996, two sea lions and six harbor seals were harvested. No sea otters have been reported harvested in Kenai. ADF&G Community Subsistence Information System harvest data are not available for Salmatof, so Hilcorp assumes the subsistence harvest patterns are similar to other communities along the road system on the southern Kenai Peninsula, namely Kenai.

Tugging activities at the Tyonek platform in the North Cook Inlet Unit in middle Cook Inlet will occur approximately 10 km from the Native Village of Tyonek. Tyonek, on the western side of middle Cook Inlet, has a subsistence harvest area that extends south from the Susitna River to Tuxedni Bay (Stanek *et al.*, 2007). Moose and salmon are the most important subsistence resources measured by harvested weight (Stanek, 1994). In Tyonek, harbor seals were harvested between June and September by 6 percent of the households (Jones *et al.*, 2015). Seals were harvested in several areas, encompassing an area stretching 32 km along the Cook Inlet coastline from the McArthur Flats north to the Beluga River. Seals were searched for or harvested in the Trading Bay areas as well as from the beach adjacent to Tyonek (Jones *et al.*, 2015).

Seal hunting occurs opportunistically among Alaska Natives who may be fishing or traveling in upper Cook Inlet near the mouths of the Susitna River, Beluga River, and Little Susitna River. Hilcorp's tugging activities may overlap with subsistence hunting of seals. However, these activities typically occur along the shoreline or very close to shore near river mouths, whereas most of Hilcorp's tugging is in the middle of the Inlet and rarely near the shoreline or river mouths.

Any harassment to marine mammals will be limited to minor behavioral changes (*e.g.*, increased swim speeds, changes in dive behaviors and communication signals, temporary avoidance near the tugs) and is anticipated to be short-term, mild, and not result in any abandonment or

behaviors that would make the animals unavailable to Alaska Natives.

To further minimize any potential effects of their action on subsistence activities, Hilcorp has outlined their communication plan for engaging with subsistence users in their Stakeholder Engagement Plan (see appendix C of Hilcorp's application). This includes using traditional/subsistence knowledge to inform planning for the activity. Hilcorp is required to abide by this plan and update the plan accordingly.

Based on the description of the specified activity, the measures described to minimize adverse effects on the availability of marine mammals for subsistence purposes, and the required mitigation and monitoring measures, NMFS has determined that the authorized harassment will not have an unmitigable adverse impact on the availability of marine mammal species or stocks for taking for subsistence uses.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the NMFS AKRO.

Four marine mammal species (fin whale, humpback whale (Mexico DPS), beluga whale (Cook Inlet), and Steller sea lion (Western DPS)) occur in the project area and are listed as threatened or endangered under the ESA. The NMFS AKRO issued a Biological Opinion under section 7 of the ESA on the issuance of an IHA to Hilcorp under section 101(a)(5)(D) of the MMPA by NMFS Office of Protected Resources. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of these species and is not likely to destroy or adversely modify their critical habitat.

National Environmental Policy Act

To comply with the NEPA of 1969 (42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must review our proposed action (*i.e.*, the issuance of an IHA) with respect to potential impacts on the human environment. NMFS prepared an EA and analyzed the potential impacts to marine mammals that would result from Hilcorp's planned activities. A Finding of No Significant Impact

(FONSI) was signed on September 4, 2024. Copies of the EA and FONSI are available at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/incidental-take-authorizations-oil-and-gas>.

Authorization

NMFS has issued an IHA to Hilcorp for the potential harassment of small numbers of 12 marine mammal species incidental to Hilcorp's use of tugs to tow, hold, and position a jack-up rig in support of their oil and gas activities in Cook Inlet, Alaska from September 24, 2024 through September 23, 2025, that includes the previously explained mitigation, monitoring and reporting requirements.

Dated: September 24, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024-22293 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XE225]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Army Corps of Engineers Baker Bay Pile Dike Repair Project

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the Army Corps of Engineers (ACOE) to incidentally harass marine mammals during construction activities associated with the Baker Bay pile dike repair project in Baker Bay, Oregon. There are no changes from the proposed authorization in this final authorization.

DATES: This authorization is effective from August 1, 2025 to July 31, 2026.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, may be obtained online at: [https://www.fisheries.noaa.gov/action/incidental-take-authorization-army-](https://www.fisheries.noaa.gov/action/incidental-take-authorization-army-corp-engineers-baker-bay-pile-dike-repair-project)

corp-engineers-baker-bay-pile-dike-repair-project-baker. In case of problems accessing these documents, please call the contact listed below.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, Office of Protected Resources, NMFS, (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

The MMPA prohibits the “take” of marine mammals, with certain exceptions. Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are proposed or, if the taking is limited to harassment, a notice of a proposed IHA is provided to the public for review.

Authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other “means of effecting the least practicable adverse impact” on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of the species or stocks for taking for certain subsistence uses (referred to in shorthand as “mitigation”); and requirements pertaining to the monitoring and reporting of the takings. The definitions of all applicable MMPA statutory terms cited above are included in the relevant sections below.

Summary of Request

On September 8, 2022, NMFS received a request from the ACOE for an IHA to take marine mammals incidental to pile driving and removal at the mouth of the Columbia River in Oregon. Following NMFS' review of the application, the ACOE submitted two revised versions on March 4, 2024 and May 1, 2024. The application was deemed adequate and complete on June 10, 2024. The ACOE's request is for take of eight species of marine mammals by Level B harassment and, for harbor seal (*Phoca vitulina*), Level A harassment. Neither ACOE nor NMFS expect serious injury or mortality to result from this

activity and, therefore, an IHA is appropriate.

Description of Activity

ACOE is planning to conduct pile dike repairs in the Baker Bay system, located in the Columbia River estuary. There are a variety of activities that will occur during this project. Take of marine mammals is expected to occur only during the construction of the material offload facility and the installation of the marker piles. Vibratory and impact pile driving will introduce underwater sounds that may result in take, by Level A and Level B harassment, of marine mammals. It is expected to take up to 12 non-consecutive days to complete the pile driving activities from August through October.

A detailed description of the planned construction project is provided in the **Federal Register** notice for the proposed IHA (89 FR 60385, July 25, 2024). Since that time, no changes have been made to the planned activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS' proposal to issue an IHA to the ACOE was published in the **Federal Register** on July 25, 2024 (89 FR 60385). That notice described, in detail, the ACOE's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. In that notice, we requested public input on the request for authorization described therein, our analyses, the proposed authorization, and any other aspect of the notice of proposed IHA, and requested that interested persons submit relevant information, suggestions, and comments. During the 30-day public comment period, NMFS did not receive any public comments.

Description of Marine Mammals in the Area of Specified Activities

Sections 3 and 4 of the application summarize available information regarding status and trends, distribution and habitat preferences, and behavior and life history of the potentially affected species. NMFS fully considered all of this information, and we refer the reader to these descriptions, instead of reprinting the information. Additional information regarding population trends and threats may be found in NMFS' Stock Assessment Reports (SARs; <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>)

and more general information about these species (e.g., physical and behavioral descriptions) may be found on NMFS' website (<https://www.fisheries.noaa.gov/find-species>).

Table 1 lists all species or stocks for which take is expected and authorized for this activity and summarizes information related to the population or stock, including regulatory status under the MMPA and Endanger Species Act (ESA) and potential biological removal (PBR), where known. PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a

marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population (as described in NMFS' SARs). While no serious injury or mortality is anticipated or authorized here, PBR and annual serious injury and mortality from anthropogenic sources are included here as gross indicators of the status of the species or stocks and other threats.

Marine mammal abundance estimates presented in this document represent the total number of individuals that make up a given stock or the total number estimated within a particular study or survey area. NMFS' stock

abundance estimates for most species represent the total estimate of individuals within the geographic area, if known, that comprises that stock. For some species, this geographic area may extend beyond U.S. waters. All managed stocks in this region are assessed in NMFS' U.S. Pacific SARs. All values presented in table 1 are the most recent available at the time of publication (including from the draft 2023 SARs) and are available online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessments>.

TABLE 1—SPECIES LIKELY IMPACTED BY THE SPECIFIED ACTIVITIES ¹

Common name	Scientific name	Stock	ESA/ MMPA status; strategic (Y/N) ²	Stock abundance (CV, N _{min} , most recent abundance survey) ³	PBR	Annual M/SI ⁴
Order Artiodactyla—Infraorder Cetacea—Mysticeti (baleen whales)						
<i>Family Eschrichtiidae (baleen whale):</i>						
Gray Whale	<i>Eschrichtius robustus</i>	Eastern N Pacific	- , -, N	26,960 (0.05, 25,849, 2016) ..	801	131
<i>Family Balaenopteridae (rorquals)</i>						
Humpback whale	<i>Megaptera novaeangliae</i>	Central America/Southern Mexico—CA/OR/WA. Mainland Mexico—CA/OR/WA	E, D, Y T, D, Y	1,494 (0.171, 1,284, 2021) 3,477 (0.101, 3,185, 2018)	3.5 43	14.9 22
Odontoceti (toothed whales, dolphins, and porpoises)						
<i>Family Delphinidae:</i>						
Killer whale	<i>Orcinus orca</i>	West Coast Transient	- , -, N	349 (N/A, 349, 2018)	3.5	0.4
<i>Family Phocoenidae (porpoises):</i>						
Harbor porpoise	<i>Phocoena phocoena</i>	Northern OR/WA Coast	- , -, N	22,074 (0.391, 16,068, 2022)	161	3.2
Order Carnivora—Pinnipedia						
<i>Family Otariidae (eared seals and sea lions):</i>						
Steller sea lion	<i>Eumetopias jubatus</i>	Eastern DPS	- , -, N	36,308 (N/A, 36,308, 2022) ...	2,178	93.2
California sea lion	<i>Zalophus californianus</i>	U.S.	- , -, N	257,606 (N/A, 233,515, 2014)	14,011	>321
<i>Family Phocidae (earless seals):</i>						
Harbor seal	<i>Phoca vitulina</i>	OR/WA Coastal	- , -, N	UNK (UNK, UNK, 1999)	UND	10.6
Northern elephant seal	<i>Mirounga angustirostris</i>	CA Breeding	- , -, N	187,386 (N/A, 85,369, 2013)	5,122	13.7

¹ Information on the classification of marine mammal species can be found on the web page for The Society for Marine Mammalogy's Committee on Taxonomy.

² Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

³ NMFS marine mammal stock assessment reports online at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-stock-assessment-reports-region>. CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

⁴ These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (e.g., commercial fisheries, ship strike). Annual M/SI often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

A detailed description of the species likely to be affected by the Baker Bay pile dike project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (89 FR 60385, July 25, 2024); since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed

descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' website (<https://www.fisheries.noaa.gov/find-species>) for generalized species accounts.

Marine Mammal Hearing

Hearing is the most important sensory modality for marine mammals underwater, and exposure to anthropogenic sound can have deleterious effects. To appropriately

assess the potential effects of exposure to sound, it is necessary to understand the frequency ranges marine mammals are able to hear. Not all marine mammal species have equal hearing capabilities (e.g., Richardson *et al.* 1995; Wartzok and Ketten 1999; Au and Hastings 2008). To reflect this, Southall *et al.* (2007, 2019) recommended that marine mammals be divided into hearing groups based on directly measured (behavioral or auditory evoked potential techniques) or estimated hearing ranges

(behavioral response data, anatomical modeling, *etc.*). Subsequently, NMFS (2018) described generalized hearing ranges for these marine mammal hearing groups. Generalized hearing ranges were chosen based on the approximately 65-

decibel (dB) threshold from the normalized composite audiograms, with the exception for lower limits for low-frequency cetaceans where the lower bound was deemed to be biologically implausible and the lower bound from

Southall *et al.* (2007) retained. Marine mammal hearing groups and their associated hearing ranges are provided in table 2.

TABLE 2—MARINE MAMMAL HEARING GROUPS
[NMFS, 2018]

Hearing group	Generalized hearing range *
Low-frequency (LF) cetaceans (baleen whales)	7 Hz to 35 kHz.
Mid-frequency (MF) cetaceans (dolphins, toothed whales, beaked whales, bottlenose whales)	150 Hz to 160 kHz.
High-frequency (HF) cetaceans (true porpoises, <i>Kogia</i> , river dolphins, Cephalorhynchid, <i>Lagenorhynchus cruciger</i> & <i>L. australis</i>)	275 Hz to 160 kHz.
Phocid pinnipeds (PW) (underwater) (true seals)	50 Hz to 86 kHz.
Otariid pinnipeds (OW) (underwater) (sea lions and fur seals)	60 Hz to 39 kHz.

* Represents the generalized hearing range for the entire group as a composite (*i.e.*, all species within the group), where individual species' hearing ranges are typically not as broad. Generalized hearing range chosen based on ~65 dB threshold from normalized composite audiogram, with the exception for lower limits for LF cetaceans (Southall *et al.* 2007) and PW pinniped (approximation).

The pinniped functional hearing group was modified from Southall *et al.* (2007) on the basis of data indicating that phocid species have consistently demonstrated an extended frequency range of hearing compared to otariids, especially in the higher frequency range (Hemilä *et al.*, 2006; Kastelein *et al.*, 2009; Reichmuth *et al.*, 2013).

For more detail concerning these groups and associated frequency ranges, please see NMFS (2018) for a review of available information.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from the ACOE's construction activities have the potential to result in behavioral harassment of marine mammals in the vicinity of the project area. The notice of proposed IHA (89 FR 60385, July 25, 2024) included a discussion of the effects of anthropogenic noise on marine mammals and the potential effects of underwater noise from the ACOE's construction on marine mammals and their habitat. That information and analysis is referenced in this final IHA determination and is not repeated here; please refer to the notice of proposed IHA (89 FR 60385, July 25, 2024).

Estimated Take of Marine Mammals

This section provides an estimate of the number of incidental takes authorized through the IHA, which will inform NMFS' consideration of "small numbers," the negligible impact determinations, and impacts on subsistence uses.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines "harassment" as any act

of pursuit, torment, or annoyance, which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes will primarily be by Level B harassment, as use of the construction equipment (*i.e.*, pile driving) has the potential to result in disruption of behavioral patterns for individual marine mammals. There is also some potential for auditory injury (Level A harassment) of phocids because predicted auditory injury zones are larger than for other species. The mitigation and monitoring measures are expected to minimize the severity of the taking to the extent practicable.

As described previously, no serious injury or mortality is anticipated or to be authorized for this activity. Below we describe how the take numbers are estimated.

For acoustic impacts, generally speaking, we estimate take by considering: (1) acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of permanent hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) the number of days of activities. We note that while these factors can contribute to a basic calculation to provide an initial prediction of potential takes, additional information that can

qualitatively inform take estimates is also sometimes available (*e.g.*, previous monitoring results or average group size). Below, we describe the factors considered here in more detail and present the take estimates.

Acoustic Thresholds

NMFS recommends the use of acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur Permanent Threshold Shift (PTS) of some degree (equated to Level A harassment).

Level B Harassment—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source or exposure context (*e.g.*, frequency, predictability, duty cycle, duration of the exposure, signal-to-noise ratio, distance to the source), the environment (*e.g.*, bathymetry, other noises in the area, predators in the area), and the receiving animals (hearing, motivation, experience, demography, life stage, depth) and can be difficult to predict (*e.g.*, Southall *et al.* 2007, 2021; Ellison *et al.* 2012). Based on what the available science indicates and the practical need to use a threshold based on a metric that is both predictable and measurable for most activities, NMFS typically uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS generally predicts that marine mammals are likely to be behaviorally harassed in a manner considered to be Level B harassment when exposed to underwater anthropogenic noise above root-mean-

squared pressure received levels (RMS SPL) of 120 dB (referenced to 1 micropascal (re 1 μ Pa)) for continuous (e.g., vibratory pile driving, drilling) and above RMS SPL 160 dB re 1 μ Pa for non-explosive impulsive (e.g., seismic airguns) or intermittent (e.g., scientific sonar) sources. Generally speaking, Level B harassment take estimates based on these behavioral harassment thresholds are expected to include any likely takes by Temporary Threshold Shift (TTS) as, in most cases, the likelihood of TTS occurs at distances from the source less than those at which behavioral harassment is likely. TTS of a sufficient degree can manifest as behavioral harassment, as reduced

hearing sensitivity and the potential reduced opportunities to detect important signals (conspecific communication, predators, prey) may result in changes in behavior patterns that will not otherwise occur.

The ACOE's construction includes the use of continuous (vibratory pile driving) and impulsive (impact pile driving) sources, and therefore the RMS SPL thresholds of 120 and 160 dB re 1 μ Pa are applicable.

Level A Harassment—NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Version 2.0; Technical Guidance 2018) identifies dual criteria to assess auditory injury (Level A harassment) to five different

marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). The ACOE's construction includes the use of impulsive (impact pile driving) and non-impulsive (vibratory pile driving) sources.

These thresholds are provided in the table below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS' 2018 Technical Guidance, which may be accessed at: <https://www.fisheries.noaa.gov/national/marine-mammal-protection/marine-mammal-acoustic-technical-guidance>.

TABLE 3—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset acoustic thresholds* (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	Cell 1: $L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	Cell 2: $L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	Cell 3: $L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	Cell 4: $L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	Cell 5: $L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	Cell 6: $L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	Cell 7: $L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	Cell 8: $L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	Cell 9: $L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	Cell 10: $L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μ Pa, and cumulative sound exposure level (L_E) has a reference value of 1 μ Pa²s. In this table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (i.e., varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that are used in estimating the area ensonified above the acoustic thresholds, including source levels and transmission loss coefficient.

The sound field in the project area is the existing background noise plus additional construction noise from the project. Marine mammals are expected to be affected via sound generated by the primary components of the project (i.e., impact pile driving and vibratory pile driving and removal). The maximum (underwater) area ensonified above the thresholds for behavioral harassment referenced above is 20.72 km² (12.87 mi²), and will consist of most of the mouth of the Columbia River immediately south of West Sand Island (See figure 1 in the proposed IHA 89 FR 60385, July 25, 2024). Additionally, vessel traffic in the project area may contribute to elevated

background noise levels which may mask sounds produced by the project.

Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$$TL = B \times \log_{10} (R_1/R_2),$$

where

TL = transmission loss in dB

B = transmission loss coefficient

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the

water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6-dB reduction in sound level for each doubling of distance from the source ($20 \times \log[\text{range}]$). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source ($10 \times \log[\text{range}]$). A practical spreading value of 15 is often used under conditions, such as the project site, where water increases with depth as the receiver moves away from the shoreline, resulting in an expected propagation environment that will lie between spherical and cylindrical spreading loss conditions. Practical spreading loss is assumed here.

The intensity of pile driving sounds is greatly influenced by factors such as the

type of piles, hammers, and the physical environment in which the activity takes place. In order to calculate the distances to the Level A harassment and the Level B harassment sound thresholds for the methods and piles being used in this project, the applicant and NMFS used acoustic monitoring data from other locations to develop proxy source levels

for the various pile types, sizes and methods. The project includes vibratory and impact pile installation of steel pipe and sheet piles and vibratory removal of steel sheet piles. Source levels for 24-in steel pipe piles are used as a proxy for all steel piles that may be placed for marker piles of the dike system, though smaller piles may be used during the

construction. NMFS consulted multiple sources to determine valid proxy source levels for the impact installation of sheet piles, as indicated in table 4. This is the best available data for sheet pile source levels and is based on 24-in sheet piles used for a project in California. Source levels for each pile size and driving method are presented in table 4.

TABLE 4—PROXY SOUND SOURCE LEVELS FOR PILE SIZES AND DRIVING METHODS

Pile size	Method	Proxy source level (at 10 m)			Literature source
		dB RMS re 1μPa	dB SEL re 1μPa²sec	dB peak re 1μPa	
24-in	Vibratory	154	N/A	N/A	Navy 2015.
24-in sheet pile	Vibratory	160	N/A	N/A	Caltrans 2020.
24-in	Impact	189	178	203	Caltrans 2015.

The ensonified area associated with Level A harassment is more technically challenging to predict due to the need to account for a duration component. Therefore, NMFS developed an optional User Spreadsheet tool to accompany the Technical Guidance that can be used to relatively simply predict an isopleth distance for use in conjunction with marine mammal density or occurrence to help predict potential takes. We note that because of some of the assumptions

included in the methods underlying this optional tool, we anticipate that the resulting isopleth estimates are typically going to be overestimates of some degree, which may result in an overestimate of potential take by Level A harassment. However, this optional tool offers the best way to estimate isopleth distances when more sophisticated modeling methods are not available or practical. For stationary sources such as impact or vibratory pile

driving, the optional User Spreadsheet tool predicts the distance at which, if a marine mammal remained at that distance for the duration of the activity, it would be expected to incur PTS. Inputs used in the optional User Spreadsheet tool are reported below (table 5). The resulting estimated Level A harassment isopleths and the Level B harassment isopleths are reported in table 6.

TABLE 5—USER SPREADSHEET INPUTS FOR CALCULATING LEVEL A HARASSMENT ISOPLETHS

Pile size and installation method	Spreadsheet tab used	Weighting factor adjustment (kHz)	Number of strikes per pile	Number of piles per day	Activity duration (minutes)
24-in vibratory installation (MOF Option 2).	A.1 Vibratory pile driving	2.5	N/A	8	20
24-in vibratory removal (MOF Option 2)	A.1 Vibratory pile driving	2.5	N/A	16	5
24-in sheet pile vibratory installation (MOF Option 1).	A.1 Vibratory pile driving	2.5	N/A	25	15
24-in sheet pile vibratory removal (MOF Option 1).	A.1 Vibratory pile driving	2.5	N/A	60	3
24-in vibratory installation (Pile Markers).	A.1 Vibratory pile driving	2.5	N/A	8	15
24-in impact installation (Pile Markers)	E.1 Impact pile driving	2	225	5	N/A

TABLE 6—CALCULATED LEVEL A AND LEVEL B HARASSMENT ISOPLETHS

Activity	Level A harassment zone (m)					Level B harassment zone (m)
	LF-cetaceans	MF-cetaceans	HF-cetaceans	Phocids	Otariids	
24-in Steel Pipe Pile Vibratory Install (MOF Option 2)	4.5	0.4	6.6	2.7	0.2	1,847.8
24-in Steel Pipe Pile Vibratory Removal (MOF Option 2)	2.8	0.3	4.2	1.7	0.1	
24-in sheet pile vibratory installation (MOF Option 1)	23.4	2.1	34.6	14.2	1.0	4,641.1
24-in sheet pile vibratory removal (MOF Option 1)	12.2	1.1	18	7.4	0.5	
24-in vibratory installation (Pile Markers)	3.7	0.3	5.5	2.3	0.2	1,847.8
24-in impact installation (Pile Markers)	501.4	17.8	597.2	268.3	19.5	857.7

Marine Mammal Occurrence and Take Estimation

In this section we provide information about the occurrence of marine mammals, including density or other relevant information which will inform the take calculations. We describe how the information provided is synthesized to produce a quantitative estimate of the take that is reasonably likely to occur and authorized.

When available, peer-reviewed scientific publications were used to estimate marine mammal abundance in the project area. Data from monitoring reports from the previous Sand Island Test Pile Project was used to calculate take for several species. However, scientific surveys and resulting data, such as population estimates, densities, and other quantitative information, are lacking for some species. The ACOE also gathered qualitative information from discussions with knowledgeable local people that frequent the mouth of the Columbia River. Assumptions regarding the size of expected groups of different species, and the frequency of occurrence of those groups, were made by the ACOE on the basis of the aforementioned information and are described for each species below.

Since reliable densities are not available, the take numbers are based on the assumed occurrence of a given stock during the activity. The applicant used equation 1, below, to estimate take of killer whales and Steller sea lions, equation 2 to estimate take of humpback whale, harbor porpoise, California sea lions, and harbor seals, and neither equation for gray whale or Northern elephant seals. NMFS concurs with this method. The estimated take calculation for these/this species is explained in the relevant section below.

- (1) Estimated Take = number of individuals in a group $\times$ groups per day $\times$ days of pile-related activity
- (2) Estimated Take = total expected duration of the project (minutes) $\div$ total duration of the Sand Island Test Pile Project $\times$ the total number of animals of a given species observed during the Sand Island Test Pile Project

Gray Whale

Historically gray whales have not frequented the mouth of the Columbia River. No gray whales were observed during monitoring activities of the Sand Island Test Pile Project (Hamer Environment L.P. 2020). In August of 2020, an ACOE biologist observed two gray whales traveling upriver from the project site. Given this recent sighting and the temporal overlap of the project

and the most recent sighting, NMFS authorized two takes of gray whales by Level B harassment.

The largest Level A harassment zone for gray whales extends 513 m from the noise source (table 6). ACOE is planning to implement shutdown zones for low-frequency cetaceans that exceed the Level A harassment isopleth for all activities. Therefore, especially in combination with the already low occurrence of gray whales in the area, implementation of the shutdown zones is expected to eliminate the potential for take by Level A harassment of gray whale. Therefore, no take by Level A harassment is anticipated or authorized for humpback whales.

Humpback Whales

Humpback whales have occurred in the lower Columbia River near the project area in recent years. Feeding groups have been using the mouth of the Columbia River as a foraging ground, arriving as early as mid-June, and have been observed as late as mid-November with a peak of abundance coinciding with the peak abundance of forage fish in mid-summer (The Columbian 2019). During pile driving activities of the Sand Island Test Pile Project, seven animals were observed (Hamer Environment L.P. 2020). The ACOE estimated take of humpback whales using equation 2 above resulting in a take estimate of 16 takes by Level B harassment (2277 (pile driving minutes for this activity)/1037 (pile driving minutes for Sand Island Test Pile Project) $\times$ 7 observed animals). NMFS agrees with this approach and estimated take. As described above, NMFS anticipates that 42 percent of takes will occur to individuals of the Central America/Southern Mexico-CA/OR/WA stock and 58 percent of takes will occur to individuals of the Mainland Mexico-CA/OR/WA which will equate to seven and nine takes respectively.

The largest Level A harassment zone for humpback whales extends 513 m from the noise source (table 6). ACOE is planning to implement shutdown zones for low-frequency cetaceans that exceed the Level A harassment isopleth for all activities. Implementation of the shutdown zones is expected to eliminate the potential for take by Level A harassment of humpback whale. No take by Level A harassment is anticipated or authorized for humpback whales.

Killer Whale

Use of the mouth of the Columbia River is rare for killer whales, but in recent years pods of killer whales have been observed in and around the mouth

of the Columbia River. During the recent monitoring of the Sand Island Test Pile Project, no killer whales were observed (Hamer Environment L.P. 2020). Aerial seabird marine mammal surveys observed 0 killer whales in January 2011, 0 in February 2012, and 10 in September 2012 within an approximately 1,500 km² range near the Mouth of the Columbia River (Adams 2014). A pod of transient killer whales was detected near the Astoria Bridge in May of 2018 (Frankowicz 2018) and in 2022 (Tomlinson 2022). The ACOE estimated the average group sizes from these past observations was seven. Based on the rare occurrence of killer whales in the project area, ACOE expects that one group of seven killer whales may occur during the 12 days of construction in the Level B harassment zone. NMFS concurs and authorized seven takes of killer whale by Level B harassment.

The largest Level A harassment zone for killer whales extends 17.8 m from the noise source (table 6). ACOE is planning to implement shutdown zones for mid-frequency cetaceans that exceed the Level A harassment isopleth for all activities. Implementation of the shutdown zones is expected to eliminate the potential for take by Level A harassment of killer whale. No take by Level A harassment is anticipated or authorized for killer whales.

Harbor Porpoise

Harbor porpoises are regularly observed in the offshore waters near the mouth of the Columbia River and are known to occur there year-round. Porpoise abundance peaks when anchovy (*Engraulis mordax*) abundance in the river and nearshore are highest, which is usually between April and August (Litz *et al.* 2008). Harbor porpoise tend to occur in groups of one to two individuals. During the recent monitoring of the Sand Island Test Pile Project, eight harbor porpoise were observed during construction activities (Hamer Environment L.P. 2020). Using equation 2 above, ACOE expects that 18 takes by Level B harassment will occur over the 12 days of pile driving (2277 (pile driving minutes for this activity)/1037 (pile driving minutes for Sand Island Test Pile Project) $\times$ 8 observed animals). NMFS agrees with this approach and authorized 18 takes by Level B harassment of harbor porpoise.

The largest Level A harassment zone for harbor porpoise extends 597 m from the noise source (table 6). ACOE is planning to implement shutdown zones for high-frequency cetaceans that exceed the Level A harassment isopleth for all activities, and it did not request take by

Level A harassment of harbor porpoise. For some activities (*i.e.*, impact driving of 24-in piles), the shutdown zones extends farther than Protected Species Observers (PSO) may be able to reliably detect harbor porpoise. However, given the portion of the zone within which PSOs could reliably detect a harbor porpoise, the infrequency of harbor porpoise observations during the Sand Island Test Pile project monitoring, and harbor porpoise sensitivity to noise, no take by Level A harassment is anticipated or authorized for harbor porpoise.

Steller Sea Lion

Steller sea lion occurrence was estimated using Washington Department of Fish and Wildlife haulout survey data from the South Jetty at the mouth of the Columbia River from 2000 to 2014. During the recent monitoring of the Sand Island Test Pile Project no Steller sea lions were observed (Hamer Environment L.P. 2020). Given the close proximity of the haulout, NMFS expects that Steller sea lions could occur near the project site. Occurrence was estimated using the monthly haulout numbers for the months when work will be occurring during the project. In August, the average number of Steller sea lions hauled out at the jetty was 72, and in October, the average number of sea lions at the jetty was 77. In August, construction will occur over 7-days, and in October, construction will occur over 5 days. Given the daily occurrence rates and days of in-water construction, and using equation 1, the ACOE expects that 889 takes by Level B harassment will occur (daily occurrence (72 or 77) × days of activity), and NMFS authorized 889 takes by Level B harassment of Steller sea lion.

The largest Level A harassment zone for Steller sea lions extends 19.5 m from the noise source (table 6). ACOE is planning to implement shutdown zones for otariids that exceed the Level A harassment isopleth for all activities. Implementation of the shutdown zones is expected to eliminate the potential for

take by Level A harassment of Steller sea lion. No take by Level A harassment is anticipated or authorized for Steller sea lion.

California Sea Lion

Similar to Steller sea lions, California sea lions use the South Jetty at the mouth of the Columbia River and make frequent trips inside the mouth of the river. Occurrence on the South Jetty peaks in summer and use in the fall and winter is more concentrated. During recent monitoring activities of the Sand Island Test Pile Project 59 animals were observed (Hamer Environment L.P. 2020). Using equation 2 above, ACOE expects that 144 takes by Level B harassment California sea lions will occur (2277 (pile driving minutes for this activity)/1037 (pile driving minutes for Sand Island Test Pile Project) × 59 observed animals), and NMFS authorized 144 takes by Level B harassment of California sea lion.

The largest Level A harassment zone for California sea lions extends 19.5 m from the noise source (table 6). ACOE is planning to implement shutdown zones for otariids that exceed the Level A harassment isopleth for all activities. Implementation of the shutdown zones is expected to eliminate the potential for take by Level A harassment of California sea lion. No take by Level A harassment is anticipated or authorized for California sea lion.

Harbor Seal

Harbor seals are the most abundant pinniped in Oregon and occur in the project area. Large numbers of harbor seals move through the mouth of the Columbia River throughout the year and are expected to be present in the project area. During recent monitoring of the Sand Island Test Pile Project, a total of 309 harbor seals were observed during construction activities (Hamer Environment L.P. 2020). Take estimates were generated using equation 2 above and the Sand Island Pile Test Project monitoring results. ACOE expects that 679 takes by Level B harassment of

harbor seals will occur during the project (2277 (pile driving minutes for this activity)/1037 (pile driving minutes for Sand Island Test Pile Project) × 309 observed animals), and NMFS authorized 679 takes by Level B harassment of harbor seal.

The Level A harassment zone for harbor seals during impact installation is 268 m (table 6). ACOE will implement a shutdown zone of 150 m given the difficulty of observing harbor seals at greater distances and practicability concerns regarding efficient work production rates that will be associated with a larger shutdown zone (see Mitigation section). During impact installation ACOE expects that two harbor seals could be present in the Level A harassment zone. Therefore, over the 3 days of impact pile driving, NMFS anticipates, and authorized, six takes by Level A harassment (two takes per day × 3 days = six takes by Level B harassment).

Northern Elephant Seal

Northern elephant seals occur infrequently in the mouth of the Columbia River. Recent sightings of elephant seals have occurred in the fall and spring upriver from the project site. Although, no Northern elephant seals were observed during the Sand Island Test Pile Project (Hamer Environment L.P. 2020). ACOE expects that two animals may be present in the Level B harassment zone during the 12-days of construction, and NMFS authorized two takes by Level B harassment of elephant seal.

The largest Level A harassment zone for Northern elephant seals extends 268 m from the noise source (table 6). ACOE is planning to implement shutdown zones for Northern elephant seal that exceed the Level A harassment isopleth for all activities. Implementation of the shutdown zones is expected to eliminate the potential for take by Level A harassment of Northern elephant seal. No take by Level A harassment is anticipated or authorized for Northern elephant seals.

TABLE 7—AUTHORIZED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK

Common name	Stock	Stock abundance ^a	Level A	Level B	Total take	Take as a percentage
Gray Whale	Eastern N Pacific	26,960	0	2	2	<1
Humpback Whale	Central America/Southern Mexico-CA/OR/WA	1,494	0	7	7	<1
	Mainland Mexico-CA/OR/WA	3,477	0	9	9	<1
Killer Whale	West Coast Transients	349	0	7	7	2
Harbor Porpoise	Northern OR/WA Coast	22,074	0	18	18	<1
Steller sea lion	Eastern	36,308	0	889	889	2.4
California Sea Lion	United States	257,074	0	144	144	<1
Harbor Seal	OR/WA Coastal	UKN	6	679	685	N/A

TABLE 7—AUTHORIZED TAKE BY LEVEL A AND LEVEL B HARASSMENT, BY SPECIES AND STOCK—Continued

Common name	Stock	Stock abundance ^a	Level A	Level B	Total take	Take as a percentage
Northern Elephant Seal	CA Breeding	187,386	0	2	2	<1

^aStock size is best estimate of population (Nbest) according to NMFS 2022 Final Stock Assessment Reports and where appropriate the draft NMFS 2022 Final Stock Assessment Reports was used to estimate Nbest.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to the activity, and other means of effecting the least practicable impact on the species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting the activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, NMFS considers two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is

expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned), the likelihood of effective implementation (probability implemented as planned), and;

(2) The practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations.

ACOE is required to implement the following mitigation measures:

Implementation of Shutdown Zones—For all pile driving/removal activities, the ACOE will implement shutdowns within designated zones. The purpose of a shutdown zone is generally to define an area within which shutdown of activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area). Implementation of shutdowns will be used to minimize the number and

severity of takes from vibratory and impact pile driving and removal (table 8). For all pile driving/removal activities, a minimum 25-m shutdown zone will be established for pinnipeds and 50-m shutdown zone for cetaceans as outlined in the ACOE application for an IHA. For harbor seals, ACOE will implement a shutdown zone of 25 m given its concerns about potential frequent shutdowns that may occur with a larger shutdown zone in consideration of high occurrence of harbor seals in the project area. To minimize the potential of Level A harassment of harbor seals, NMFS recommended a shutdown zone of 150 m for harbor seals. ACOE concurred that this zone was practicable, and therefore, NMFS required a shutdown zone of 150 m for harbor seals. Shutdown zones for impact pile driving are based on the Level A harassment zones and therefore vary by marine mammal hearing group (table 8). The placement of PSOs during all pile driving activities (described in detail in the Monitoring and Reporting section) will ensure the full extent of shutdown zones are visible to PSOs.

TABLE 8—SHUTDOWN ZONES DURING PILE INSTALLATION AND REMOVAL

Activity	Pile size	Shutdown zones (m)					
		LF cetaceans	MF cetaceans	HF cetaceans	Harbor seals	Northern elephant seal	Otariids
Vibratory Installation	24-in (pile markers)	50	50	50	25	25	25
Vibratory Installation and removal	24-in (MOF option 2)	50	50	50	25	25	25
Vibratory Installation and removal	24-in sheet pile (MOF option 1)	50	50	50	25	25	25
Impact Installation	24-in (pile markers)	510	50	600	150	270	25

Monitoring for Level A and Level B Harassment—The ACOE has identified monitoring zones correlated with the Level B harassment zones. Monitoring zones provide utility for observing by establishing monitoring protocols for areas adjacent to the shutdown zones. Monitoring zones enable observers to be aware of and communicate the presence of marine mammals in the project area outside the shutdown zone and thus prepare for a potential cessation of activity should the animal enter the shutdown zone. PSOs will monitor the entire visible area to maintain the best sense of where animals are moving

relative to the zone boundaries defined in table 8. Placement of PSOs on the shorelines around Sand Island will allow PSOs to observe marine mammals near the project area. While not required by this IHA, ACOE states that it may also place a PSO on a skiff near the project area if safe conditions allow.

Soft Start—Soft-start procedures are used to provide additional protection to marine mammals by providing warning and/or giving marine mammals a chance to leave the area prior to the hammer operating at full capacity. For impact pile driving, contractors will be required to provide an initial set of three strikes

at reduced energy, followed by a 30-second waiting period, then two subsequent reduced-energy strike sets. Soft start will be implemented at the start of each day's impact pile driving and at any time following cessation of impact pile driving for a period of 30 minutes or longer. Soft start is not required during vibratory pile driving and removal activities.

Pre-Activity Monitoring—Prior to the start of daily in-water construction activity, or whenever a break in pile driving/removal of 30 minutes or longer occurs, PSOs will observe the shutdown and monitoring zones for a period of 30

minutes. The shutdown zone will be considered cleared when a marine mammal has not been observed within the zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start cannot proceed until the animal has left the zone or has not been observed for 15 minutes. If the monitoring zone has been observed for 30 minutes and marine mammals are not present within the zone, soft-start procedures can commence and work can continue. Pre-start clearance monitoring must be conducted during periods of visibility sufficient for the lead PSO to determine that the shutdown zones, indicated in table 9, are clear of marine mammals. When a marine mammal for which take by Level B harassment is authorized is present in the Level B harassment zone, activities may begin. If work ceases for more than 30 minutes, the pre-activity monitoring of both the monitoring zone and shutdown zone will commence.

Based on our evaluation of the applicant's measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present while conducting the activities. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.*, presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) action or

environment (*e.g.*, source characterization, propagation, ambient noise); (2) affected species (*e.g.*, life history, dive patterns); (3) co-occurrence of marine mammal species with the activity; or (4) biological or behavioral context of exposure (*e.g.*, age, calving or feeding areas);

- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.*, marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and,
- Mitigation and monitoring effectiveness.

Visual Monitoring

Monitoring shall be conducted by NMFS-approved observers in accordance with section 5 of the IHA. Trained observers shall be placed from the best vantage point(s) practicable to monitor for marine mammals and implement shutdown or delay procedures when applicable through communication with the equipment operator. Observer training must be provided prior to project start, and shall include instruction on species identification (sufficient to distinguish the species in the project area), description and categorization of observed behaviors and interpretation of behaviors that may be construed as being reactions to the specified activity, proper completion of data forms, and other basic components of biological monitoring, including tracking of observed animals or groups of animals such that repeat sound exposures may be attributed to individuals (to the extent possible).

Monitoring will be conducted 30 minutes before, during, and 30 minutes after pile driving/removal activities. In addition, observers shall record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven or removed. Pile driving/removal activities include the time to install or remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

A minimum of two PSO will be on duty during all in-water construction activities. Locations from which PSOs will be able to monitor for marine mammals are readily available from the shore of Sand Island. PSOs will monitor for marine mammals entering the harassment zones.

PSOs will scan the waters using binoculars or spotting scopes and will use a handheld range-finder device to verify the distance to each sighting from the project site. PSOs will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator via a radio.

The ACOE will adhere to the following observer qualifications:

(i) PSOs must be independent of the activity contractor (for example, employed by a subcontractor) and have no other assigned tasks during monitoring periods;

(ii) At least one PSO must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;

(iii) Other PSOs may substitute other relevant experience, education (degree in biological science or related field), or training for prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization;

(iv) Where a team of three or more PSOs is required, a lead observer or monitoring coordinator must be designated. The lead observer must have prior experience performing the duties of a PSO during construction activity pursuant to a NMFS-issued incidental take authorization; and

(v) PSOs must be approved by NMFS prior to beginning any activity subject to this IHA.

Additional recommended observer qualifications include:

- Ability to conduct field observations and collect data according to assigned protocols;
- Experience or training in the field identification of marine mammals, including the identification of behaviors;
- Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations;
- Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction

activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior; and

- Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Reporting

A draft marine mammal monitoring report will be submitted to NMFS within 90 days after the completion of pile driving and removal activities. It will include an overall description of work completed, a narrative regarding marine mammal sightings, and associated PSO data sheets. Specifically, the report must include:

- Dates and times (begin and end) of all marine mammal monitoring.
- Construction activities occurring during each daily observation period, including the number and type of piles driven or removed and by what method (*i.e.*, impact driving) and for each pile or total number of strikes for each pile (impact driving).
- PSO locations during marine mammal monitoring.
- Environmental conditions during monitoring periods (at beginning and end of PSO shift and whenever conditions change significantly), including Beaufort sea state and any other relevant weather conditions including cloud cover, fog, sun glare, and overall visibility to the horizon, and estimated observable distance.
- Upon observation of a marine mammal, the following information: Name of PSO who sighted the animal(s) and PSO location and activity at time of sighting; time of sighting; identification of the animal(s) (*e.g.*, genus/species, lowest possible taxonomic level, or unidentified), PSO confidence in identification, and the composition of the group if there is a mix of species; distance and bearing of each marine mammal observed relative to the pile being driven for each sighting (if pile driving was occurring at time of sighting); estimated number of animals (min/max/best estimate); estimated number of animals by cohort (adults, juveniles, neonates, group composition, *etc.*); animal's closest point of approach and estimated time spent within the harassment zone; description of any marine mammal behavioral observations (*e.g.*, observed behaviors such as feeding or traveling), including an assessment of behavioral responses thought to have resulted from the activity (*e.g.*, no response or changes in behavioral state

such as ceasing feeding, changing direction, flushing, or breaching).

- Number of marine mammals detected within the harassment zones, by species.
- Detailed information about any implementation of any mitigation triggered (*e.g.*, shutdowns and delays), a description of specific actions that ensued, and resulting changes in behavior of the animal(s), if any.

If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report addressing NMFS comments must be submitted within 30 days after receipt of comments.

Reporting Injured or Dead Marine Mammals

In the event that personnel involved in the construction activities discover an injured or dead marine mammal, the Holder must report the incident to the Office of Protected Resources (OPR), NMFS and to the West Coast regional stranding network as soon as feasible. If the death or injury was clearly caused by the specified activity, the Holder must immediately cease the activities until NMFS OPR is able to review the circumstances of the incident and determine what, if any, additional measures are appropriate to ensure compliance with the terms of this IHA. The Holder must not resume their activities until notified by NMFS. The report must include the following information:

- Time, date, and location (latitude/longitude) of the first discovery (and updated location information if known and applicable);
- Species identification (if known) or description of the animal(s) involved;
- Condition of the animal(s) (including carcass condition if the animal is dead);
- Observed behaviors of the animal(s), if alive;
- If available, photographs or video footage of the animal(s); and
- General circumstances under which the animal was discovered.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population-

level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be "taken" through harassment, NMFS considers other factors, such as the likely nature of any impacts or responses (*e.g.*, intensity, duration), the context of any impacts or responses (*e.g.*, critical reproductive time or location, foraging impacts affecting energetics), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS' implementing regulations (54 FR 40338, September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the baseline (*e.g.*, as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

To avoid repetition, the majority of our analysis applies to all the species listed in table 7, given that many of the anticipated effects of this project on different marine mammal stocks are expected to be relatively similar in nature. Where there are meaningful differences between species or stocks, or groups of species, in anticipated individual responses to activities, impact of expected take on the population due to differences in population status, or impacts on habitat, they are described independently in the analysis below.

Pile driving and removal activities associated with the project as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level A harassment and Level B harassment from underwater sounds generated from pile driving and removal. Potential takes could occur if individuals of these species are present in zones ensonified above the thresholds for Level A or Level B harassment identified above when these activities are underway.

Take by Level A and Level B harassment will be due to potential behavioral disturbance, TTS, and PTS. No serious injury or mortality is anticipated or authorized given the nature of the activity and measures designed to minimize the possibility of injury to marine mammals. Take by Level A harassment is only anticipated for harbor seals. The potential for

harassment is minimized through the construction method (*i.e.*, use of direct pull removal or vibratory methods to the extent practical) and the implementation of the mitigation measures (see Mitigation section).

Behavioral responses of marine mammals to pile driving and removal at the project site, if any, are expected to be mild and temporary. Marine mammals within the Level B harassment zone may not show any visual cues they are disturbed by activities or could become alert, avoid the area, leave the area, or display other mild responses that are not observable such as changes in vocalization patterns. Given the limited number of piles to be installed or extracted per day and that pile driving and removal will occur across a maximum of 12 days within the 12-month authorization period, any harassment will be temporary.

In addition to the expected effects resulting from Level B harassment, we anticipate that harbor seals may sustain some limited Level A harassment in the form of PTS. However, any PTS is expected to be of a small degree (*i.e.*, minor degradation of hearing capabilities within regions of hearing that align most completely with the energy produced by pile driving (below 2 kHz)) because animals would need to be exposed to higher levels and/or longer duration than are expected to occur here in order to incur any more than a small degree of PTS. If hearing impairment occurs, it is most likely that the affected animal would lose a few decibels in its hearing sensitivity, which in most cases is not likely to meaningfully affect its ability to forage and communicate with conspecifics, as it would be minor and not in the region of greatest hearing sensitivity.

Additionally, and as noted previously, some subset of the individuals that are behaviorally harassed could also simultaneously incur some small degree of TTS for a short duration of time. Because of the small degree anticipated, though, any PTS or TTS potentially incurred here would not be expected to adversely impact individual fitness, let alone annual rates of recruitment or survival.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities will not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish or invertebrates to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the

foraging range; but, because of the short duration of the activities, the relatively small area of the habitat that may be affected, and the availability of nearby habitat of similar or higher value, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

A large portion of the west coast, including the mouth of the Columbia River, has been identified as a biologically important area (BIA) for gray whale feeding (Calambokidis *et al.* 2024). As described above, the presence of gray whales in the project area is rare, and the area of overlap of the project with the feeding BIA affected is small compared to the overall size of the BIA. The gray whale feeding BIA is active from June through November while the project is scheduled to occur between August and October, resulting in only three months of overlap with the project and 3 months when the BIA is active but ACOE will not be conducting work. Additionally, pile driving associated with the project is expected to take only 12 days, further reducing the temporal overlap with the BIA. Therefore, take of gray whales using this feeding BIA, given both the small footprint of the activity relative to the BIA, and the scope and nature of the anticipated impacts of pile driving exposure, is not anticipated to impact the reproduction or survival of any individuals.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect any of the species or stocks through effects on annual rates of recruitment or survival:

- No serious injury or mortality is anticipated or authorized;
- Any take by Level A harassment (harbor seals, only) is anticipated to result in slight PTS within the lower frequencies associated with pile driving;
- The anticipated incidents of Level B harassment will consist of, at worst, temporary modifications in behavior that would not result in fitness impacts to individuals;
- The area impacted by the specified activity is very small relative to the overall habitat ranges of all stocks, and does not overlap ESA-designated critical habitat. While impacts will occur within an area that is important for gray whale feeding, because of the small footprint of the activity relative to the feeding area, the limited temporal overlap of the activity and the feeding period, and the scope and nature of the anticipated impacts of pile driving exposure, we do not expect impacts to the reproduction or survival of any individuals; and

- ACOE will implement mitigation measures, such as soft-starts for impact pile driving and shut downs, to minimize the numbers of marine mammals exposed to injurious levels of sound, and to ensure that take by Level A harassment, is at most, a small degree of PTS.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted previously, only take of small numbers of marine mammals may be authorized under sections 101(a)(5)(A) and (D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. When the predicted number of individuals to be taken is fewer than one-third of the species or stock abundance, the take is considered to be of small numbers. Additionally, other qualitative factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

Table 7 demonstrates the number of animals that NMFS anticipates could be taken by Level A and Level B harassment for the work. Our analysis shows that at most 2.4 percent of each affected stock could be taken by harassment. The numbers of animals to be taken for these stocks will be considered small relative to the relevant stock's abundances, even if each estimated taking occurred to a new individual, which is an unlikely scenario.

Based on the analysis contained herein of the activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS finds that small numbers of marine mammals will be taken relative to the population size of the affected species or stocks.

Endangered Species Act

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it

authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species, in this case with the West Coast Regional Office.

Two DPSs of humpback whale (Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA) occur in the project area and are listed as endangered and threatened, respectively, under the ESA. The NMFS West Coast Regional OPR Division issued a Biological Opinion on September 11, 2025 under section 7 of the ESA, on the issuance of an IHA to the ACOE under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of Central America/Southern Mexico-CA/OR/WA and Mainland Mexico-CA/OR/WA humpback whales and is not likely to destroy or adversely modify their critical habitat.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216-6A, NMFS must evaluate our proposed action the issuance of an IHA and alternatives with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216-6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of this IHA qualifies to be categorically excluded from further NEPA review.

Authorization

NMFS has issued an IHA to the ACOE for the potential harassment of small numbers of eight marine mammal species incidental to the pile dike repair project in Baker Bay, Oregon, that includes the previously explained mitigation, monitoring and reporting requirements.

Dated: September 25, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024-22394 Filed 9-27-24; 8:45 am]

BILLING CODE 3510-22-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Limitations of Duty- and Quota-Free Imports of Apparel Articles Assembled in Beneficiary Sub-Saharan African Countries From Regional and Third- Country Fabric

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Publishing the new 12-month cap on duty- and quota-free benefits.

DATES: The new limitations become applicable October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Thomas Newberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)-482-7578.

SUPPLEMENTARY INFORMATION:

Authority: Title I, section 112(b)(3) of the Trade and Development Act of 2000 (TDA 2000), Public Law (Pub. L.) 106-200, as amended by Division B, Title XXI, section 3108 of the Trade Act of 2002, Public Law 107-210; Section 7(b)(2) of the AGOA Acceleration Act of 2004, Public Law 108-274; Division D, title VI, section 6002 of the Tax Relief and Health Care Act of 2006 (TRHCA 2006), Public Law 109-432, and section 1 of The African Growth and Opportunity Amendments (Public Law 112-163), August 10, 2012; Presidential Proclamation 7350 of October 2, 2000 (65 FR 59321); Presidential Proclamation 7626 of November 13, 2002 (67 FR 69459); and title I, section 103(b)(2) and (3) of the Trade Preferences Extension Act of 2015, Public Law 114-27, June 29, 2015.

Title I of TDA 2000 provides for duty- and quota-free treatment for certain textile and apparel articles imported from designated beneficiary sub-Saharan African countries. Section 112(b)(3) of TDA 2000 provides duty- and quota-free treatment for apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarn originating in the United States or one or more beneficiary sub-Saharan African countries. This preferential treatment is

also available for apparel articles assembled in one or more lesser-developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric used to make such articles, subject to quantitative limitation. Public Law 114-27 extended this special rule for lesser-developed countries through September 30, 2025.

The AGOA Acceleration Act of 2004 provides that the quantitative limitation for the 12-month period beginning October 1, 2024 will be an amount not to exceed 7 percent of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available. *See* section 112(b)(3)(A)(ii)(I) of TDA 2000, as amended by section 7(b)(2)(B) of the AGOA Acceleration Act of 2004. Of this overall amount, apparel imported under the special rule for lesser-developed countries is limited to an amount not to exceed 3.5 percent of all apparel articles imported into the United States in the preceding 12-month period. *See* section 112(b)(3)(B)(ii)(II) of TDA 2000, as amended by section 6002(a)(3) of TRHCA 2006. The Annex to Presidential Proclamation 7350 of October 2, 2000 directed CITA to publish the aggregate quantity of imports allowed during each 12-month period in the **Federal Register**.

For the one-year period, beginning on October 1, 2024, and extending through September 30, 2025, the aggregate quantity of imports eligible for preferential treatment under these provisions is 1,757,888,503 square meters equivalent. Of this amount, 878,944,252 square meters equivalent is available to apparel articles imported under the special rule for lesser-developed countries. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs.

These quantities are calculated using the aggregate square meter equivalents of all apparel articles imported into the United States, derived from the set of Harmonized System lines listed in the Annex to the World Trade Organization Agreement on Textiles and Clothing (ATC), and the conversion factors for units of measure into square meter equivalents used by the United States in implementing the ATC.

Tyler Beckelman,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 2024-22397 Filed 9-27-24; 8:45 am]

P

CONSUMER PRODUCT SAFETY COMMISSION**Sunshine Act Meeting**

TIME AND DATE: Wednesday, October 2, 2024—10:00 a.m.—Noon (see **MATTERS TO BE CONSIDERED**).

PLACE: The meeting will be held remotely, and in person at 4330 East West Highway, Bethesda, Maryland, 20814.

STATUS: Commission Meeting—Open to the Public.

MATTERS TO BE CONSIDERED: *Briefing Matters:*

Draft Final Rule: Safety Standard for Infant Support Cushions

Notice of Proposed Rulemaking:

Requirements for Neck Floats

To attend the meeting remotely, please use the following link: <https://cpsc.webex.com/cpsc/j.php?MTID=mb8fce51679e324e8d681091b00736b23>.

CONTACT PERSON FOR MORE INFORMATION: Alberta E. Mills, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, 301–504–7479 (Office) or 240–863–8938 (Cell).

Dated: September 25, 2024.

Alberta E. Mills,

Commission Secretary.

[FR Doc. 2024–22440 Filed 9–26–24; 11:15 am]

BILLING CODE P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System**

[Docket Number DARS–2020–0033; OMB Control Number 0750–0010]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS) Part 227, Patents, Data, and Copyrights; Small Business Technology Transfer Program

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 30, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent

within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT:

Tucker Lucas, 571–372–7574, or whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 227, Patents, Data, and Copyrights; Small Business Technology Transfer Program; OMB Control Number 0750–0010.

Type of Request: New submission.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Number of Respondents: 302.

Responses per Respondent: 2.

Annual Responses: 604.

Average Burden per Response: 21 hours.

Annual Burden Hours: 12,684.

Needs and Uses: This information collection is a result of a new DFARS requirement to implement the data rights requirements in the Small Business Administration's Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Program Policy Directive. The DFARS implementation of these requirements includes a new solicitation provision and a new contract clause. The solicitation provision requires offerors to provide a representation and to prepare and submit a written agreement between the offeror and a partnering research institution; the agreement must specify certain aspects such as the allocation of ownership, rights, and responsibilities for intellectual property resulting from the STTR award. The contract clause requires contractors to submit, as necessary, updated versions of the written agreement and written representation.

DoD contracting officers will review the representation and the agreement submitted by the offeror to ensure the agreement does not conflict with the requirements of the solicitation or any right to carry out follow-on research. If such conflicts exist and cannot be

resolved, the offeror's proposal will not be eligible for award.

After contract award, if there is a modification to the written agreement between the contractor and partnering research institution, the contracting officer will review the agreement and representation to ensure the modified agreement complies with the requirements of the contract clause.

DoD Clearance Officer: Mr. Tucker Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2024–22388 Filed 9–27–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE**Defense Acquisition Regulations System**

[Docket Number DARS–2024–0017; OMB Control Number 0750–0012]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS) Part 270, Defense Contracting Programs; Pilot Program To Incentivize Contracting With Employee-Owned Businesses

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: The Defense Acquisition Regulations System has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by October 30, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

You may also submit comments, identified by docket number and title, by the following method: Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT:

Tucker Lucas, 571–372–7574, or
whs.mc-alex.esd.mbx.dd-dod-
information-collections@mail.mil.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 270, Defense Contracting Programs; Pilot Program to Incentivize Contracting with Employee-Owned Businesses; OMB Control Number 0750–0012.

Type of Request: New submission.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Number of Respondents: 16.

Responses per Respondent: 1.

Annual Responses: 16.

Average Burden per Response: 1 hour.

Annual Burden Hours: 16.

Needs and Uses: This information collection is a result of a new DFARS requirement to implement the data collection required by section 874 of the National Defense Authorization Act (NDAA for Fiscal Year (FY) 2022 (Pub. L. 117–81), as amended by section 872 of the NDAA for FY 2024 (Pub. L. 118–31). The DFARS implementation of this requirement includes a new contract clause, which requires contractors to provide data on the following: (1) the number of years the contractor has been wholly-owned by its employee stock ownership plan; (2) the contractor's challenges in attracting and retaining a talented workforce; (3) challenges the contractor experienced due to its corporate ownership structure that hinder its ability to contract with DoD in order to scale its technologies and capabilities; and (4) challenges the contractor experienced due to its corporate ownership structure in obtaining capital necessary to bridge funding gaps, for example, between prototype demonstration and full-scale development. The data will be used to develop and share best practices relating to the pilot program and to provide information to DoD leadership and the congressional defense committees.

DoD Clearance Officer: Mr. Tucker Lucas. Requests for copies of the information collection proposal should be sent to Mr. Lucas at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2024–22389 Filed 9–27–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DoD–2024–OS–0104]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

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

DATES: Consideration will be given to all comments received by November 29, 2024.

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

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments,

please write to DoD, Office of Force Resiliency, Military Community Advocacy, 4800 Mark Center Dr., Alexandria, VA 22350, Angela Whittaker, 202–430–2480.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Problematic Sexual Behavior in Children and Youth Information System; OMB Control Number 0704–0620.

Needs and Uses: This information collection provides incident and case management data on problematic sexual behavior between children and youth as required by the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115–232), section 1089, Policy on Response to Juvenile-on-Juvenile Problematic Sexual Behavior Committed on Military Installations. This statute requires policy development, data collection, and Family Advocacy Program (FAP) involvement through a multidisciplinary response to problematic sexual behavior in children and youth (PSB–CY) occurring on military installations. The purpose of the collection is to determine eligibility for FAP services and to initiate a case record that will inform and support the development and implementation of well-coordinated safety plans, evidence informed support and intervention services, and referrals to specialized care when needed that meet the complex needs of children, youth, and their families involved in incidents of PSB–CY.

Affected Public: Individuals or households.

Annual Burden Hours: 2,500.

Number of Respondents: 2,500.

Responses per Respondent: 1.

Annual Responses: 2,500.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–22312 Filed 9–27–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE**Office of the Secretary**

[Docket ID: DoD–2024–OS–0106]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Intelligence and Security (OUSD(I&S)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

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

DATES: Consideration will be given to all comments received by November 29, 2024.

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

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Counterintelligence and Security Agency, 27130 Telegraph Road, Quantico, VA 22134, ATTN: Ms. Stepheny Fanning, or call 571–572–2456.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Personnel Security System Access Request (PSSAR) Form; DD

Form 2962, Volume 2; OMB Control Number 0705–0009.

Needs and Uses: The DD 2962, Volume 2, Personnel Security System Access Request (PSSAR) Form is used to collect the necessary information to vet and establish accounts for persons wishing to become users and gain access to personnel systems across the DoD, including National Background Investigation Services, the Defense Information System for Security, the Defense Central Index of Investigations, the Secure Web Fingerprint Transmission. These systems facilitate the initiation, investigation, and adjudication of information relevant to DoD security clearances and employment suitability determinations for active-duty military, civilian employees and contractors seeking such credentials. These personnel security systems are the authoritative source for clearance information resulting in accesses determinations to sensitive/ classified information and facilities. The PSSAR Form is solely used for the purpose of requesting an account for these systems, and this information collection request is not intended to cover any information collected within those systems. Each respondent is required to have a completed form on file at all times to remain compliant with the account request procedures for all systems.

Affected Public: Individuals or households.

Annual Burden Hours: 3,704.

Number of Respondents: 22,225.

Responses per Respondent: 1.

Annual Responses: 22,225.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–22313 Filed 9–27–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2024–OS–0107]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

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

DATES: Consideration will be given to all comments received by November 29, 2024.

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

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Sexual Assault Prevention and Response Office (SAPRO), 4800 Mark Center Drive, Suite 05J25, Alexandria, VA 22311, Anita Boyd, 703–474–2543.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Defense Sexual Assault Incident Reporting; DD Forms 2965, 2910, 2910–1, 2910–2, 2910–3, and 2910–4; OMB Control Number 0704–0482.

Needs and Uses: Section 563 of Public Law (Pub. L.) 110–417, the National

Defense Authorization Act (NDAA) for Fiscal Year (FY) 2009, directs the Secretary of Defense to implement a centralized case-level database for the collection and maintenance of information regarding sexual assaults involving members of the Armed Forces. This includes information, if available, about the nature of the assault, victim, alleged offender, investigative information, case outcomes in connection with the assault, and other information necessary to fulfill reporting requirements. Section 543 of Public Law 114–328, the NDAA for FY2017, further directed the Secretary of Defense to include information on each claim of retaliation in connection with a report of sexual assault in the Armed Force made by or against a member of such Armed Force in the Annual Report on Sexual Assault in the Military. This includes the narrative description and nature of each complaint, information on the complainant and alleged retaliator, and summary and determination of the investigation. Section 536 of Public Law 116–92 of the NDAA for FY 2020 directs the Secretary to prescribe procedures under which a victim who files a restricted report on an incident of sexual assault may request, at any time, the return of any personal property of the victim obtained as part of the sexual assault forensic examination.

Affected Public: Individuals or households.

Annual Burden Hours: 17,319.

Number of Respondents: 8,247.

Responses per Respondent: 1.

Annual Responses: 8,247.

Average Burden per Response: 2.1 hours.

Frequency: On occasion.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024–22314 Filed 9–27–24; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee (DoDWC); Notice of Federal Advisory Committee Meetings

AGENCY: Under Secretary of Defense for Personnel and Readiness (USD(P&R)), Department of Defense (DoD).

ACTION: Notice of closed Federal advisory committee meetings.

SUMMARY: The DoD is publishing this notice to announce that the following

Federal Advisory Committee meetings of the DoDWC will take place.

DATES:

Tuesday, October 1, 2024, from 10:00 a.m. to 11:00 a.m.; closed to the public.

Tuesday, October 15, 2024, from 10:00 a.m. to 1:00 p.m.; closed to the public.

Tuesday, October 29, 2024, from 10:00 a.m. to 10:30 a.m.; closed to the public.

Tuesday, November 12, 2024, from 10:00 a.m. to 1:00 p.m.; closed to the public.

Tuesday, November 26, 2024, from 10:00 a.m. to 11:30 a.m.; closed to the public.

Tuesday, December 10, 2024, from 10:00 a.m. to 11:30 a.m.; closed to the public.

Tuesday, December 17, 2024, from 10:00 a.m. to 11:30 a.m.; closed to the public.

ADDRESSES: The closed meetings will be held by Microsoft Teams.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Fendt, Designated Federal Officer (DFO) (571) 372–1618 (voice), karl.h.fendt.civ@mail.mil (email), 4800 Mark Center Drive, Suite 05G21, Alexandria, Virginia 22350 (mailing address). Any agenda updates can be found at the DoDWC's official website: <https://wageandsalary.dcpas.osd.mil/BWN/DODWC/>.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer for the DoDWC, the DoDWC was unable to provide public notification required by 41 CFR 102–3.450 (a) concerning its October 1, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the DoD, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

These meetings are being held under the provisions of chapter 10 of title 5 United States Code (U.S.C.) (commonly known as the “Federal Advisory Committee Act” or “FACA”), 5 U.S.C. 552b (commonly known as the “Government in the Sunshine Act”), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of these meetings is to provide independent advice and recommendations on matters relating to the conduct of wage surveys and the establishment of wage schedules for all appropriated fund and non-appropriated fund areas of blue-collar employees within the DoD.

Agendas

October 1, 2024

Opening Remarks by Chair, Mr. Eric Clayton, and DFO, Mr. Karl Fendt. Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous meeting.

2. Survey Specifications for the Sacramento, California wage area (AC–002).

3. Survey Specifications for the San Joaquin, California wage area (AC–008).

4. Survey Specifications for the Bernalillo, New Mexico area (AC–019).

5. Survey Specifications for the Dona Ana, New Mexico wage area (AC–021).

6. Survey Specifications for the El Paso, Texas wage area (AC–023).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

7. Wage Schedule (Full Scale) for the Cedar Rapids-Iowa City, Iowa wage area (AC–052).

8. Wage Schedule (Full Scale) for the Madison, Alabama wage area (AC–147).

9. Wage Schedule (Wage Change) for the Dothan, Alabama wage area (AC–003).

10. Wage Schedule (Wage Change) for the Pittsburgh, Pennsylvania wage area (AC–116).

11. Special Rates—Missouri River Power Rate.

12. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair, Mr. Eric Clayton.

October 15, 2024

Opening Remarks by Chair, Mr. Eric Clayton, and DFO, Mr. Karl Fendt. Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous meeting.

2. Wage Schedule (Full Scale) for the Los Angeles, California wage area (AC–130).

3. Wage Schedule (Full Scale) for the Orange, California wage area (AC–131).

4. Wage Schedule (Full Scale) for the Ventura, California wage area (AC–132).

5. Wage Schedule (Full Scale) for the Riverside, California wage area (AC–133).

6. Wage Schedule (Full Scale) for the San Bernardino, California wage area (AC–134).

7. Wage Schedule (Full Scale) for the Santa Barbara, California wage area (AC–135).

8. Wage Schedule (Full Scale) for the Guam wage area (AC-150).

9. Wage Schedule (Wage Change) for the Monterey, California wage area (AC-003).

10. Wage Schedule (Wage Change) for the Kern, California wage area (AC-010).

11. Wage Schedule (Wage Change) for the San Diego, California wage area (AC-054).

12. Wage Schedule (Wage Change) for the Solano, California wage area (AC-059).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

13. Wage Schedule (Full Scale) for the Little Rock, Arkansas wage area (AC-011).

14. Wage Schedule (Full Scale) for the Boston, Massachusetts wage area (AC-068).

15. Wage Schedule (Full Scale) for the Portland, Oregon wage area (AC-112).

16. Wage Schedule (Full Scale) for the Wichita Falls, Texas-Southwestern Oklahoma wage area (AC-138).

17. Wage Schedule (Wage Change) for the Washington, District of Columbia wage area (AC-027).

18. Wage Schedule (Wage Change) for the Albany, Georgia wage area (AC-036).

19. Wage Schedule (Wage Change) for the Columbus, Georgia wage area (AC-040).

20. Wage Schedule (Wage Change) for the Northwestern Michigan wage area (AC-071).

21. Wage Schedule (Wage Change) for the Charlotte, North Carolina wage area (AC-100).

22. Wage Schedule (Wage Change) for the Oklahoma City, Oklahoma wage area (AC-109).

23. Wage Schedule (Wage Change) for the Tulsa, Oklahoma wage area (AC-111).

24. Wage Schedule (Wage Change) for the Scranton-Wilkes Barre, Pennsylvania wage area (AC-117).

25. Survey Specifications for the Jacksonville, Florida wage area (AC-030).

26. Survey Specifications for the Detroit, Michigan wage area (AC-070).

27. Survey Specifications for the Southeastern North Carolina wage area (AC-101).

28. Survey Specifications for the Columbus, Ohio wage area (AC-106).

29. Special Pay—Little Rock, Arkansas Special Rates.

30. Special Pay—Boston, Massachusetts Special Rates.

31. Special Pay—Portland, Oregon Special Rates.

32. Any items needing further clarification from this agenda may be

discussed during future scheduled meetings.

Closing Remarks by Chair, Mr. Eric Clayton.

October 29, 2024

Opening Remarks by Chair, Mr. Eric Clayton, and DFO, Mr. Karl Fendt.

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

1. Any items needing further clarification or action from the previous meeting.

2. Survey Specifications for the Denver, Colorado wage area (AC-022).

3. Survey Specifications for the Miami, Florida wage area (AC-031).

4. Survey Specifications for the Cincinnati, Ohio wage area (AC-104).

5. Survey Specifications for the Narragansett Bay, Rhode Island wage area (AC-118).

6. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair, Mr. Eric Clayton.

November 12, 2024

Opening Remarks by Chair, Mr. Eric Clayton, and DFO, Mr. Karl Fendt.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous meeting.

2. Survey Specifications for the Lauderdale, Mississippi wage area (AC-001).

3. Survey Specifications for the Lowndes, Mississippi wage area (AC-004).

4. Survey Specifications for the Rapides, Louisiana wage area (AC-024).

5. Survey Specifications for the Caddo-Bossier, Louisiana wage area (AC-025).

6. Survey Specifications for the Chatham, Georgia wage area (AC-037).

7. Survey Specifications for the Dougherty, Georgia wage area (AC-046).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

8. Wage Schedule (Full Scale) for the Los Angeles, California wage area (AC-013).

9. Wage Schedule (Full Scale) for the San Bernardino-Riverside-Ontario, California wage area (AC-016).

10. Wage Schedule (Full Scale) for the Santa Barbara, California wage area (AC-019).

11. Wage Schedule (Full Scale) for the New London, Connecticut wage area (AC-025).

12. Wage Schedule (Full Scale) for the Panama City, Florida wage area (AC-033).

13. Wage Schedule (Full Scale) for the Chicago, Illinois wage area (AC-047).

14. Wage Schedule (Full Scale) for the Las Vegas, Nevada wage area (AC-085).

15. Wage Schedule (Full Scale) for the Portsmouth, New Hampshire wage area (AC-087).

16. Wage Schedule (Full Scale) for the Seattle-Everett-Tacoma, Washington wage area (AC-143).

17. Wage Schedule (Wage Change) for the San Diego, California wage area (AC-017).

18. Wage Schedule (Wage Change) for the San Francisco, California wage area (AC-018).

19. Wage Schedule (Wage Change) for the Pensacola, Florida wage area (AC-034).

20. Wage Schedule (Wage Change) for the Central Illinois wage area (AC-046).

21. Wage Schedule (Wage Change) for the Des Moines, Iowa wage area (AC-054).

22. Wage Schedule (Wage Change) for the Baltimore, Maryland wage area (AC-066).

23. Wage Schedule (Wage Change) for the Buffalo, New York wage area (AC-092).

24. Survey Specifications for the Sacramento, California wage area (AC-014).

25. Survey Specifications for the Stockton, California wage area (AC-020).

26. Survey Specifications for the Meridian, Mississippi wage area (AC-079).

27. Special Pay—Southwest Power Rate.

28. Special Pay—North Central Power Rate.

29. Special Pay—Los Angeles, California Special Rates.

30. Special Pay—New London, Connecticut Special Rates.

31. Special Pay—Portsmouth, New Hampshire Power Rates.

32. Special Pay—San Diego, California Special Rates.

33. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair, Mr. Eric Clayton.

November 26, 2024

Opening Remarks by Chair, Mr. Eric Clayton, and DFO, Mr. Karl Fendt.

Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous meeting.

2. Wage Schedule (Full Scale) for the Maricopa, Arizona wage area (AC-012).
 3. Wage Schedule (Full Scale) for the Pima, Arizona wage area (AC-013).
 4. Wage Schedule (Full Scale) for the Yuma, Arizona wage area (AC-055).
 5. Wage Schedule (Full Scale) for the Kings-Queens, New York wage area (AC-091).

6. Wage Schedule (Wage Change) for the Hampden, Massachusetts wage area (AC-039).

7. Wage Schedule (Wage Change) for the Middlesex, Massachusetts wage area (AC-138).

8. Wage Schedule (Wage Change) for the York, Maine wage area (AC-139).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

9. Survey Specifications for the Fresno, California wage area (AC-012).

10. Survey Specifications for the Louisville, Kentucky wage area (AC-059).

11. Survey Specifications for the Jackson, Mississippi wage area (AC-078).

12. Survey Specifications for the Eastern Tennessee wage area (AC-123).

13. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair, Mr. Eric Clayton.

December 10, 2024

Opening Remarks by Chair, Mr. Eric Clayton, and DFO, Mr. Karl Fendt. Reviewing survey results and/or survey specifications for the following Nonappropriated Fund areas:

1. Any items needing further clarification or action from the previous meeting.

2. Survey Specifications for the Richmond, Georgia wage area (AC-035).

3. Survey Specifications for the Houston, Georgia wage area (AC-036).

4. Survey Specifications for the Pulaski, Arkansas wage area (AC-045).

5. Survey Specifications for the Montgomery, Alabama wage area (AC-048).

6. Survey Specifications for the Sedgwick, Kansas wage area (AC-078).

7. Survey Specifications for the Montgomery-Greene, Ohio wage area (AC-166).

Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

8. Wage Schedule (Full Scale) for the Ft. Wayne-Marion, Indiana wage area (AC-049).

9. Wage Schedule (Full Scale) for the St. Louis, Missouri wage area (AC-081).

10. Wage Schedule (Full Scale) for the Dallas-Ft. Worth, Texas wage area (AC-131).

11. Wage Schedule (Wage Change) for the Cocoa Beach-Melbourne, Florida wage area (AC-028).

12. Wage Schedule (Wage Change) for the Eastern South Dakota wage area (AC-121).

13. Survey Specifications for the Phoenix, Arizona wage area (AC-009).

14. Survey Specifications for the Minneapolis-St. Paul, Minnesota wage area (AC-075).

15. Survey Specifications for the Albany-Schenectady-Troy, New York wage area (AC-091).

16. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair, Mr. Eric Clayton.

December 17, 2024

Opening Remarks by Chair, Mr. Eric Clayton, and DFO, Mr. Karl Fendt. Reviewing survey results and/or survey specifications for the following Appropriated Fund areas:

1. Any items needing further clarification or action from the previous meeting.

2. Wage Schedule (Full Scale) for the Bloomington-Bedford-Washington, Indiana wage area (AC-048).

3. Wage Schedule (Full Scale) for the Indianapolis, Indiana wage area (AC-050).

4. Wage Schedule (Full Scale) for the Kansas City, Missouri wage area (AC-080).

5. Wage Schedule (Full Scale) for the Southern Missouri wage area (AC-082).

6. Wage Schedule (Full Scale) for the Omaha, Nebraska wage area (AC-084).

7. Wage Schedule (Wage Change) for the Davenport-Rock Island-Moline, Iowa wage area (AC-053).

8. Wage Schedule (Wage Change) for the Southwestern Michigan wage area (AC-073).

9. Wage Schedule (Wage Change) for the Philadelphia, Pennsylvania wage area (AC-115).

10. Survey Specifications for the Northeastern Arizona wage area (AC-008).

11. Survey Specifications for the Tucson, Arizona wage area (AC-010).

12. Survey Specifications for the Northern New York wage area (AC-095).

13. Survey Specifications for the West Virginia wage area (AC-146).

14. Special Pay—Omaha, Nebraska Special Rates.

15. Special Pay—Philadelphia, Pennsylvania Special Rates.

16. Any items needing further clarification from this agenda may be discussed during future scheduled meetings.

Closing Remarks by Chair, Mr. Eric Clayton.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b(c)(4), the DoD has determined that the meetings shall be closed to the public. The USD(P&R), in consultation with the DoD Office of General Counsel, has determined in writing that each of these meetings is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Written Statements: Pursuant to 5 U.S.C. 1009(a)(3) and 41 CFR 102-3.140, interested persons may submit written statements to the DFO for the DoDWC at any time. Written statements should be submitted to the DFO at the email or mailing address listed in the **FOR FURTHER INFORMATION CONTACT** section.

If statements pertain to a specific topic being discussed at a planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the DoDWC until its next meeting. The DFO will review all timely submitted written statements and provide copies to all the committee members before the meetings that are the subject of this notice.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024-22395 Filed 9-27-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

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

ACTION: Notice of Federal advisory committee meeting.

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

DATES: Closed to the public Thursday, October 3, 2024 from 8:00 a.m. to 5:00 p.m.

ADDRESSES: The address of the closed meeting is the Pentagon, Room 3E188, Washington, DC, 20301.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth J. Kowalski, Designated Federal Officer (DFO): (703) 571-0081 (Voice), (703) 697-1860 (Facsimile), elizabeth.j.kowalski.civ@mail.mil, (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Washington, DC 20301-3140. Website: <http://www.acq.osd.mil/dsb/>. The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the DFO and the DoD, the DSB was unable to provide public notification required by 41 CFR 102-3.150(a) concerning its October 3, 2024 meeting. Accordingly, the Advisory Committee Management Officer for the DoD, pursuant to 41 CFR 102-3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of chapter 10 of title 5, United States Code (U.S.C.) (commonly known as the “Federal Advisory Committee Act” or “FACA”); 5 U.S.C. 552b (commonly known as the “Government in the Sunshine Act”) and 41 CFR 102-3.140 and 102-3.150.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD’s scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB’s mission. The DSB will meet with DoD Leadership to discuss classified current and future national security challenges and priorities within the DoD and deliberate and vote on findings and recommendations.

Agenda: The meeting will begin on Wednesday, October 3, 2024 at 8:00 a.m. Ms. Betsy Kowalski, DFO, and Dr. Eric Evans, Chair of the DSB, will provide classified opening remarks regarding ongoing studies. Following break, the DSB will deliberate and vote on the classified findings and recommendations of the Permanent Subcommittee on Strategic Options’ Commercial Provision of Navigation Signals for Operational Use study and the National Security Challenges for 2025 and Beyond product. Next, the DSB will deliberate and vote on the classified findings and recommendations of the 2024 Summer Study on Advanced Capabilities for Potential Future Conflict. Following break, the DSB will deliberate and vote on the classified findings and recommendations of the DSB Task Force on Emerging Biotechnologies and National Security. Next, General Eric Smith, Commandant of the Marine Corps, will provide a classified briefing

on his views of current Marine Corps strategy, challenges, and priorities. Finally, the DSB will deliberate and vote on the classified findings and recommendations of the DSB Task Force on 21st Century Industrial Base for National Defense. The meeting will adjourn at 5:00 p.m.

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

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

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024-22359 Filed 9-27-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2022-OS-0113]

Submission for OMB Review; Comment Request; Correction

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 30-Day information collection notice; correction.

SUMMARY: On September 16, 2024, the DoD published a notice titled Submission for OMB Review; Comment Request. Subsequent to publication of the notice, DoD is changing the title under the *Title; Associated Form; and OMB Control Number* in the **SUPPLEMENTARY INFORMATION** section. All other information in the September 16, 2024, notice remains the same.

FOR FURTHER INFORMATION CONTACT: Patricia Toppings, 571-372-0485.

SUPPLEMENTARY INFORMATION:

Correction

The title under *Title; Associated Form; and OMB Control Number* in the **SUPPLEMENTARY INFORMATION** section in the notice that published in the **Federal Register** on September 16, 2024 (89 FR 75534-75535) is changed to read as follows:

In FR Doc. 2024-21000, on page 75534 in the third column, correct the title to read: Addressing Barriers to Mental Health Care for Active-Duty Sexual Trauma Survivors.

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024-22347 Filed 9-27-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2024-OS-0105]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995*, the OUSD(P&R) announces a proposed

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

DATES: Consideration will be given to all comments received by November 29, 2024.

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

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

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Ms. Lisa Davis, Deputy Director, Health & Resilience at the Office of People Analytics, Defense Personnel Analytics Center: 4800 Mark Center Drive, Suite 06E22, Alexandria, VA 22350–4000, Elizabeth Davis or call 703–338–8926.

SUPPLEMENTARY INFORMATION:

Title: *Associated Form;* and *OMB Number:* Service Academy Gender Relations Survey; OMB Control Number 0704–0623.

Needs and Uses: The legal requirements for the Service Academy Gender Relations (SAGR) surveys can be found in the following:

- 10 United States Code (U.S.C.), Section 4361, as amended by John

Warner National Defense Authorization Act for Fiscal Year 2007, Section 532

- 10 U.S.C., Section 481
- DoD Instruction (DoDI) 6495.02

These legal requirements mandate that the SAGR solicit information relating to sexual assault, sexual harassment, and gender discrimination in the Military Service Academies (MSAs), as well as the climate at the MSAs and social perspectives. MSAs include the U.S. Military Service Academy (USMA), the U.S. Naval Academy (USNA), and U.S. Air Force Academy (USAFA). The requirements state that the assessment cycle consists of surveys and focus groups during alternate years. They also give the Department authority to conduct such surveys under the guidance of the USD(P&R). The U.S. Coast Guard Academy (USCGA), the only Federal Military Academy within the Department of Homeland Security, is not required to participate in the assessments codified by U.S.C. 10. However, USCGA officials requested the Coast Guard be included, beginning in 2008, to evaluate and improve their programs addressing sexual assault and sexual harassment. Similarly, the U.S. Merchant Marine Academy (USMMA), under the Department of Transportation, requested their inclusion beginning in 2012. USCGA and USMMA will continue to participate in the assessments. Surveys of USCGA and USMMA are not covered under this DoD licensure and will not be mentioned further.

The Office of People Analytics (OPA) administers both web-based and paper-and-pen surveys to support the personnel information needs of the USD(P&R). The SAGR survey expands a series of surveys that began in 2004 with the DoD Inspector General's first survey, subsequently transferred to OPA. OPA conducted the SAGR survey at the MSAs in 2005, 2006, 2008, 2010, 2012, 2014, 2016, 2018, 2022, and 2024. The 2020 administration of the survey was postponed due to the COVID–19 pandemic. The first focus group assessment was conducted in 2007, with subsequent focus groups in 2009, 2011, 2013, 2015, 2017, 2019, 2021, and 2023. Information from the SAGR surveys will be used by DoD policy offices, the Military Departments, the MSAs, and Congress for program evaluation and, specifically, to assess and improve policies, programs, practices, and training related to gender relations at the MSAs. OPA will provide reports to DoD policy offices, each Military

Department, the MSAs, the Joint Chiefs of Staff, and Congress.

Affected Public: Individuals or households.

Annual Burden Hours: 5,000.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 30 minutes.

Frequency: Biennially.

The target population of the SAGR consists of all students at the MSAs: USMA, USNA, and USAFA, including the Preparatory Schools. Excluded are Service Academy Students who are (1) non-citizens and (2) are visiting from another MSA. Students under 18 years of age are also excluded. Working with the MSAs, we estimate the approximate numbers of cadets and midshipmen to be 14,200. The survey will be administered to all cadets/midshipmen (*i.e.*, a census). Based on the 2022 SAGR survey that had an 81% response rate, we estimate a 75% response rate. To achieve sufficient statistical analytical power, we will include a census of the population of interest in the study to achieve sufficient coverage.

Each Academy notifies students about the survey with an electronic message explaining the overall survey process and providing them instructions on how to select a session for administration of the survey. OPA staff is on location during the survey week to brief students and administer the survey in person using a paper survey. Sessions are typically scheduled from 0700 through 1500 and follow the Academy's class periods. Attendance is checked when a student arrives for their session (attendance is only for purposes of following up and not for identifying survey responses by individuals). Academy officials follow up with students who do not appear at their designation session and reschedule accordingly. OPA staff provides an overview briefing on the purpose for the survey. Students are advised they may leave at any time after the briefing if they choose not to complete the survey.

Data will be weighted, using an industry standard process, to reflect each Academy's population as of the time of the survey. Weighting produces survey estimates of population totals, proportions, and means (as well as other statistics) that are representative of their respective populations. OPA creates variance strata so precision measures can be associated with each estimate. We produce precision measures for reporting categories using 95% confidence intervals with the goal of achieving a precision of 5% or less (*e.g.*,

80% (+/- 5%) of cadets/midshipmen are satisfied with their training).

Dated: September 24, 2024.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2024-22315 Filed 9-27-24; 8:45 am]

BILLING CODE 6001-FR-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2024-SCC-0085]

Federal Student Loan Program Deferment Request Forms; Correction

AGENCY: Department of Education (ED), Federal Student Aid (FSA).

ACTION: Correction notice.

SUMMARY: On September 23, 2024, a request for a 30-day public comment period was published in the **Federal Register**. The abstract incorrectly included language about forbearances when the collection request is about deferments. The corrected abstract should read: These forms serve as the means by which borrowers in the William D. Ford Federal Direct Loan (Direct Loan), Federal Family Education Loan (FFEL) and the Federal Perkins Loan (Perkins Loan) Programs may request deferment of repayment on their loans if they meet certain statutory and regulatory criteria. The U.S. Department of Education and other loan holders uses the information collected on these forms to determine whether a borrower meets the eligibility requirements for the specific deferment type being submitted. For greater simplicity and to make it easier to maintain consistency among the various deferment forms, the Department is consolidating all the current deferment forms into a single collection under OMB No. 1845-0011. This collection is merging the six currently approved deferment forms in 1845-0011 with the military deferment form currently approved under 1845-0080 and the cancer treatment deferment form currently approved under 1845-0154. The Department is requesting a revision of the currently approved deferment forms. The proposed changes include the following: Updating the forms by eliminating duplicative and obsolete information; reordering items to present information in a more logical order that is consistent between forms; using "plain language" to present information more clearly and consistently; revising language as necessary to reflect regulatory changes made by the Final Rule published on November 1, 2022. The PRA Coordinator, Strategic Collections and

Clearance, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development, hereby issues a correction notice as required by the Paperwork Reduction Act of 1995.

Dated: September 25, 2024.

Kun Mullan,

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

[FR Doc. 2024-22290 Filed 9-27-24; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2024-SCC-0119]

Agency Information Collection Activities; Comment Request; District Survey on Use of Funds Under Title II, Part A

AGENCY: Office of 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 November 29, 2024.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2024-SCC-0119. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the www.regulations.gov site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 4C210, Washington, DC 20202-1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Marcos Cerdeira, (202) 453-5819.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: District Survey on Use of Funds Under Title II, Part A.

OMB Control Number: 1810-0618.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 4,452.

Total Estimated Number of Annual Burden Hours: 13,252.

Abstract: The U.S. Department of Education is requesting clearance for a revision to 1810-0618 in order to continue collecting data annually from school districts about how Title II, Part A funds are used to support authorized activities and improve equitable access to teachers for low-income and minority students; including professional development for teachers, principals, and other school leaders. The reporting requirements are outlined in section 2104(b) of the Elementary and Secondary Education Act (ESEA), as reauthorized by the Every Student Succeeds Act of 2015 (ESSA).

The annual survey will include a state representative sample of traditional

school districts, a nationally representative sample of charter school districts, and an annual request for each state to provide a list of districts that receive title II, part A funds and each district-s allocated Title II, part A amount. The survey will be sent to district title II, part A coordinators and administered using an electronic instrument.

Dated: September 25, 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. 2024–22280 Filed 9–27–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0094]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Education Stabilization Fund—Emergency Assistance for Non-Public Schools (EANS) Program Recipient Annual Reporting Data Collection Form

AGENCY: Office of 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 a revision of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before October 30, 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 Britt Jung, (202) 453–6046.

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: Education Stabilization Fund—Emergency Assistance for Non-Public Schools (EANS) Program Recipient Annual Reporting Data Collection Form.

OMB Control Number: 1810–0765.

Type of Review: Revision of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 52.

Total Estimated Number of Annual Burden Hours: 208.

Abstract: Under the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSA Act), Public Law 116–260 (December 27, 2020), Congress first authorized the Emergency Assistance to Non-Public Schools (EANS) program to provide emergency services or assistance to non-public schools in the wake of the Coronavirus Disease 2019 (COVID–19). The American Rescue Plan Act of 2021 (ARP Act), Public Law 117–2 (March 11, 2021), authorized a second round of funding (ARP EANS) to provide services or assistance to non-public schools.

This request seeks approval for a revision to the currently approved data collection for the established annual reporting requirements which align with the requirements of the EANS program and obtain information on how the program funds were used. This revision is being requested to make updates to the collection for the upcoming fiscal year and to remove two questions that are no longer relevant. The reported information will be reviewed by U.S. Department of Education (Department) employees to ensure that EANS funds are used in accordance with applicable

requirements under the CRRSA Act and ARP Act and will be shared with the public to promote transparency regarding the allocation and use of funds.

Dated: September 25, 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. 2024–22286 Filed 9–27–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0120]

Agency Information Collection Activities; Comment Request; Servicemembers Civil Relief Act (SCRA): Interest Rate Limitation Request

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before November 29, 2024.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED–2024–SCC–0120. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at ICDocketMgr@ed.gov. Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Manager of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland

Ave. SW, LBJ, Room 4C210,
Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, (202) 570–8414.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Servicemembers Civil Relief Act (SCRA): Interest Rate Limitation Request.

OMB Control Number: 1845–0135.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 200.

Total Estimated Number of Annual Burden Hours: 67.

Abstract: The Servicemembers Civil Relief Act (SCRA) provides that those on active-duty military service are entitled to have an interest rate in excess of 6% be capped at 6% for the duration of their qualifying military service. The Department is requesting an extension of the currently approved information collection. These Federal Family Education Loan (FFEL) Program and Direct Loan Program regulations have not changed. The regulations require a loan holder to match its database against the Department of Defense's Defense Manpower Data

Center (DMDC) and automatically apply the interest rate limitation, as appropriate, to borrowers under the Servicemembers Civil Relief Act. The form in this collection would only be used in limited cases where the borrower is not found in the Defense Manpower Data Center, or does not have a copy of military orders, but still wishes to receive benefits under the SCRA.

Dated: September 25, 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. 2024–22398 Filed 9–27–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0093]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Education Stabilization Fund–Governor's Emergency Education Relief Fund (GEER I and GEER II) Recipient Data Collection Form

AGENCY: Office of 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 October 30, 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 Britt Jung, (202) 453–6046.

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: Education Stabilization Fund– Governor's Emergency Education Relief Fund (GEER I and GEER II) Recipient Data Collection Form.

OMB Control Number: 1810–0748.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector.

Total Estimated Number of Annual Responses: 3,326.

Total Estimated Number of Annual Burden Hours: 40,612.

Abstract: The Department awards GEER grants to Governors (States) and analogous ESF-Governor grants to Outlying Areas for the purpose of providing local educational agencies (LEAs), institutions of higher education (IHEs), and other education related entities with emergency assistance as a result of the coronavirus pandemic. The Department has awarded these grants to States (Governor's offices) based on a formula stipulated in the legislation. The grants are also awarded to Outlying Areas based on the same formula: (1) 60% on the basis of the States or Outlying Areas relative population of individuals aged 5 through 24. (2) 40% on the basis of the States relative number of children counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (ESEA). Data collected through this information collection will inform Department monitoring and oversight, and public reporting.

This information collection requests approval for an extension to a previously approved collection that includes annual reporting requirements

to comply with the requirements of the GEER/ESF-Governor program and to obtain information on how the funds were used.

The information will be reviewed by U.S. Department of Education (Department) employees to ensure that GEER/ESF-Governor funds are used in accordance with applicable requirements under the CARES Act and CRRSA Act and will be shared with the public to promote transparency regarding the allocation and uses of funds. Furthermore, the information collected will be analyzed to provide aggregate statistics on SEA and LEA use of Education Stabilization Fund (ESF) funds to address the impacts of the COVID-19 virus on students and schools. The collection was used for a similar purpose in the first three years of its administration, with reporting made public in 2021, 2022, and 2024.

Dated: September 25, 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. 2024-22279 Filed 9-27-24; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2024-SCC-0092]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Federal Student Loan Program: Internship/Residency and Loan Debt Burden Forbearance Forms

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before October 30, 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 Beth Grebeldinger, 202-570-8414.

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

Title of Collection: Federal Student Loan Program: Internship/Residency and Loan Debt Burden Forbearance Forms.

OMB Control Number: 1845-0018.

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

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 2,215,812.

Total Estimated Number of Annual Burden Hours: 181,495.

Abstract: These forms serve as the means by which borrowers in the William D. Ford Federal Direct Loan (Direct Loan), Federal Family Education Loan (FFEL) and the Federal Perkins Loan (Perkins Loan) Programs may request forbearance of repayment on their loans if they meet certain conditions. The U.S. Department of Education and other loan holders uses the information collected on these forms to determine whether a borrower meets the eligibility requirements for the specific type of forbearance. The Service forbearance (SERV Forb) and the Student Loan Debt forbearance (SLDB Forb) forms are currently approved under OMB No. 1845-0018. The General forbearance (GEN Forb) form is currently approved under OMB No. 1845-0031. For greater simplicity and to make it easier to maintain consistency

among the various forbearance forms, the Department is consolidating the two current collections into a single collection under OMB No. 1845-0018. This review request merges the number of respondents/responses/burden hours for both collections.

Dated: September 25, 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. 2024-22390 Filed 9-27-24; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Privacy Act of 1974; System of Records

Correction

In notice document 2024-20554, appearing on pages 73640 through 73643 in the issue of Wednesday, September 11, 2024, make the following correction:

On page 73640, in the second column, in the **DATES** section, on the fourth line, "September 11, 2024" should read "October 11, 2024".

[FR Doc. C1-2024-20554 Filed 9-27-24; 8:45 am]

BILLING CODE 0099-10-D

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-ORD-2005-0530; FRL-12298-01-OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Reference and Equivalent Method Determination (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), "Application for Reference and Equivalent Method Determination (Renewal)" (EPA ICR Number 0539-15, OMB Control Number 2080-0005) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through December 31, 2024. Public comments were previously

requested via the **Federal Register** on March 11, 2024 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before October 30, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–ORD–2005–0530, to EPA online using www.regulations.gov (our preferred method), by email to ord-docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Robert W. Vanderpool, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 919–541–7877; fax number: 919–541–4848; email address: Vanderpool.Robert@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through December 31, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on March 11, 2024 during a 60-day comment period (89 FR 17463). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional

information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: To determine compliance with the NAAQS, State air monitoring agencies are required to use, in their air quality monitoring networks, air monitoring methods that have been formally designated by the EPA as either reference or equivalent methods under EPA regulations at 40 CFR part 53. A manufacturer or seller of an air monitoring method (e.g., an air monitoring sampler or analyzer) that seeks to obtain such EPA designation of one of its products must carry out prescribed tests of the method. The test results and other information must then be submitted to the EPA in the form of an application for a reference or equivalent method determination in accordance with 40 CFR part 53. The EPA uses this information, under the provisions of Part 53, to determine whether the particular method should be designated as either a reference or equivalent method. After a method is designated, the applicant must also maintain records of the names and mailing addresses of all ultimate purchasers of all analyzers or samplers sold as designated methods under the method designation. If the method designated is a method for fine particulate matter (PM_{2.5}) and coarse particulate matter (PM_{10–2.5}), the applicant must also submit a checklist signed by an ISO-certified auditor to indicate that the samplers or analyzers sold as part of the designated method are manufactured in an ISO 9001-registered facility. Also, an applicant must submit a minor application to seek approval for any proposed modifications to previously designated methods.

Form Numbers: None.

Respondents/affected entities: Private manufacturers, states.

Respondent's obligation to respond: Required to obtain the benefit of EPA designation under 40 CFR part 53. Submission of some information that is claimed by the applicant to be confidential business information may be necessary to make a reference or equivalent method determination. The confidentiality of any submitted information identified as confidential business information by the applicant will be protected in full accordance with 40 CFR 53.15 and all applicable provisions of 40 CFR part 2.

Estimated number of respondents: 22 (total).

Frequency of response: Annual.

Total estimated burden: 7,492 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$846,791 (per year), which includes \$172,692 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is no change in hours in the total estimated respondent hour burden compared with the ICR currently approved by OMB. Based on a review of historical BLS indices for 2020 and 2024, cost index factors were used to update the estimate 2024 respondent costs for capital/start-up costs and O&M costs.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–22298 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2024–0131; FRL–12261–01–OCSPP]

Certain Per- and Polyfluoroalkyl Substances (PFAS) Risk Management Under the Toxic Substances Control Act (TSCA); Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is seeking public comment on the manufacture of certain per- and polyfluoroalkyl substances (PFAS), including perfluorooctanoic acid (PFOA), perfluorononanoic acid (PFNA), and perfluorodecanoic acid (PFDA), during the fluorination of high-density polyethylene (HDPE) and other plastic containers to inform regulations as appropriate under the Toxic Substances Control Act (TSCA). This request for public comment follows the Agency's grant on July 10, 2024, of a TSCA petition received on April 11, 2024, which requested that EPA address via TSCA the regulation of PFOA, PFNA, and PFDA formed during the fluorination of plastic containers used for a variety of household consumer, pesticide, fuel, automotive, and other industrial products.

DATES: Comments must be received on or before November 29, 2024.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2024–0131, online 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:

Technical information: Thomas Groeneveld, Existing Chemical Risk Management Division (7404M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-1188; email address: groeneveld.thomas@epa.gov.

General information: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Does this action apply to me?

This action is directed to the public in general and may be of particular interest to those involved in the manufacture, processing, distribution, use, and disposal of PFAS, including PFOA, PFNA, and PFDA, formed during the fluorination of plastic containers, related industry trade organizations, non-governmental organizations with an interest in human and environmental health, state and local governments, Tribal Nations, and/or those interested in the assessment or management of risks involving chemical substances and mixtures regulated under TSCA. As such, the Agency has not attempted to describe all the specific entities that this action might apply to. If you need help determining applicability, consult the technical contact listed under **FOR FURTHER INFORMATION CONTACT**.

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

Under TSCA section 6(a), if EPA determines that the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance or mixture, or that any combination of such activities, presents an unreasonable risk of injury to health or the environment, EPA conducts a rulemaking to apply one or more of the TSCA section 6(a) requirements to the extent necessary so that the chemical substance or mixture no longer presents such risk. In proposing and promulgating rules under TSCA section 6(a), EPA considers, among other things, the provisions of TSCA sections 6(c)(2), 6(d), 6(g), and 9. In addition, to the extent that EPA makes a decision based on science, TSCA section 26(h) requires EPA, in carrying out TSCA sections 4,

5, and 6, to use "scientific information, technical procedures, measures, methods, protocols, methodologies, or models, employed in a manner consistent with the best available science," while also taking into account other considerations, including the relevance of information and any uncertainties. TSCA section 26(i) requires that decisions under TSCA sections 4, 5, and 6 be "based on the weight of the scientific evidence." TSCA section 26(k) requires that EPA consider information that is reasonably available in carrying out TSCA sections 4, 5, and 6.

C. What action is the Agency taking?

On April 11, 2024, the Center for Environmental Health, Public Employees for Environmental Responsibility, Alaska Community Action on Toxics, Clean Cape Fear, Clean Water Action, Delaware Riverkeeper and Merrimack Citizens for Clean Water submitted a petition under TSCA section 21 requesting that EPA establish regulations under TSCA section 6 prohibiting the manufacturing, processing, use, distribution in commerce and disposal of PFOA, PFNA and PFDA formed during the fluorination of plastic containers. On July 10, 2024, EPA granted this petition. TSCA section 21(b)(3) requires EPA to "promptly commence an appropriate proceeding" following the grant of a petition.

EPA has identified information necessary to inform the Agency's path forward with respect to regulation of these PFAS formed during the fluorination of plastic containers under TSCA section 6 and is issuing this notice to collect such information. EPA is seeking public comment and information regarding the number, location, and uses of fluorinated containers in the United States, including any uses critical to the national economy, national security, or critical infrastructure (which may include uses in medical devices); alternatives to the fluorination process that generates PFAS including PFOA, PFNA, and PFDA; and measures to address risk from PFOA, PFNA, and PFDA formed during the fluorination of plastic containers. As discussed above, in carrying out section 6 of TSCA, EPA considers the provisions of TSCA sections 6(c)(2), 6(d), and 6(g). The information requested in this notice will inform EPA's considerations of these provisions. For example, information about alternative fluorination processes is necessary for EPA to consider the availability of technically and economically feasible alternatives that

benefit health or the environment, as required under TSCA section 6(c)(2)(C). Similarly, consistent with TSCA section 6(d), EPA is seeking input about the availability of alternatives and the number, location, and uses of fluorinated containers to inform its consideration of compliance dates regulation as appropriate under TSCA. Further, information about the uses of fluorinated containers, alternatives to the fluorination process, and measures to address risk from PFAS formed during the fluorination of plastic containers will inform EPA's consideration of exemptions from regulation and conditions on such exemptions, as outlined in TSCA section 6(g).

D. What should I consider as I prepare my comments?

1. Submitting CBI.

Do not submit CBI to EPA through <https://www.regulations.gov> or email. If you wish to include CBI in your comment, please follow the applicable instructions at <https://www.epa.gov/dockets/commenting-epa-dockets#rules> and clearly mark the information that you claim to be CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2 and 703, as applicable.

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. Request for Comment

EPA seeks information on the manufacture of PFAS including PFOA, PFNA, and PFDA during the fluorination of HDPE and other plastic containers. Input on the following is of particular interest to EPA:

- Number, location, and uses of fluorinated containers in the United States, including any uses critical to the national economy, national security, or critical infrastructure (which may include uses in medical devices);
- Alternatives to the fluorination process that generates PFAS including PFOA, PFNA, and PFDA; and
- Measures to address risk from PFOA, PFNA, and PFDA formed during the fluorination of plastic containers.

To the extent possible, the Agency asks commenters to please cite and provide any public data related to or that supports comments provided, and to the extent permissible, describe and provide any supporting data that is not publicly available.

Authority: 15 U.S.C. 2605.

Dated: September 24, 2024.

Michal Freedhoff,

Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2024–22330 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2010–0572; FRL–12295–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Chemical-Specific Rules Under the Toxic Substances Control Act; Certain Nanoscale Materials (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Chemical-Specific Rules under the Toxic Substances Control Act; Certain Nanoscale Materials (EPA ICR Number 2517.04 and OMB Control Number 2070–0194), to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through September 30, 2024. Public comments were previously requested via the **Federal Register** on February 1, 2024 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before October 30, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OPPT–2010–0572, to EPA online using www.regulations.gov (our preferred method) or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 2821T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to

www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT:

Katherine Sleasman, Office of Program Support (7602M), Office of Chemical Safety and Pollution Prevention, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 566–1204; email address: sleasman.katherine@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through September 30, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on February 2, 2024, during a 60-day comment period (88 FR 6520). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit www.epa.gov/dockets.

Abstract: This ICR covers reporting and recordkeeping requirements for persons who manufacture or process chemical substances as nanoscale materials established under the authority of section 8(a) of the Toxic Substances Control Act (TSCA) and implementing regulations in 40 CFR part 704.20.

Form numbers: 9600–07.

Respondents/affected entities: As defined in 40 CFR 704.20(b), potential respondents include those who can reasonably ascertain that they are manufacturers (defined by statute to include importers) and/or processors of a discrete form of a reportable chemical substance or mixture. To estimate the burden, EPA considered entities potentially affected by this ICR as those that can be classified under the North American Industrial Classification System (NAICS) codes identified in question 12 of the supporting statement.

Respondent's obligation to respond: Mandatory. TSCA section 8(a) and 40 CFR 704.20.

Estimated number of potential respondents: 16 (total).

Frequency of response: Occasional.

Total estimated burden: 959 hours (per year). Burden is defined at 5 CFR 1320.3(b).

Total estimated cost: \$69,280 (per year), which includes no annualized capital or operation & maintenance costs.

Changes in the estimates: There is a decrease of 39,131 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease reflects EPA's adjustments in the estimation methodology of the costs and burden as discussed in question 12 of the supporting statement. The two key adjustments involve a reduction in estimated submissions based on actual submissions received by the EPA over the last 3-year period and calculating a weighted burden for any given respondent without separating the manufacturers from the processors. In addition to the adjustments to the burden estimates, the wage rates were revised to reflect 2022 dollars for this information collection request.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–22392 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OEI–2011–0096; FRL–11908–01–OMS]

Proposed Information Collection Request; Comment Request; Cross-Media Electronic Reporting Rule (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), Cross-Media Electronic Reporting Rule (EPA ICR Number 2002.09, OMB Control Number 2025–0003) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through February 28, 2025. This notice allows for 60 days of public comments.

DATES: Comments must be submitted on or before November 29, 2024.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA-HQ-OEI-2011-0096, online using www.regulations.gov (our preferred method), by email to docket_oms@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Nathan Wilkes, Office of Information Management, Office of Mission Support (2824T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202-566-0335; email address: wilkes.nathan@epa.gov.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202-566-1744. For additional information about EPA's public docket, visit <https://www.epa.gov/dockets>.

Pursuant to section 3506(c)(2)(A) of the PRA (44 U.S.C. 3501 *et seq.*), EPA is soliciting comments and information to enable it to: (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (ii) evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. EPA will consider the comments received and amend the ICR

as appropriate. The final ICR package will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: The scope of this ICR is the electronic reporting components of the Cross-Media Electronic Reporting Rule (CROMERR), which is designed to: (i) allow EPA to comply with the Government Paperwork Elimination Act of 1998; (ii) provide a uniform, technology-neutral framework for electronic reporting across all EPA programs; (iii) allow EPA programs to offer electronic reporting as they become ready for CROMERR; and (iv) provide states with a streamlined process—together with a uniform set of standards—for approval of their electronic reporting provisions for all their EPA-authorized programs. Responses to the collection of information are voluntary. In order to accommodate CBI, the information collected must be in accordance with the confidentiality regulations set forth in 40 CFR part 2, subpart B. Additionally, EPA will ensure that the information collection procedures comply with the Privacy Act of 1974 and the OMB Circular 108.

Form Numbers: None.

Respondents/affected entities: Entities that report electronically to EPA and state or local government authorized programs; and state and local government authorized programs implementing electronic reporting.

Respondent's obligation to respond: Voluntary, required to obtain or retain a benefit (CROMERR was established to ensure compliance with the Government Paperwork Elimination Act (GPEA)).

Estimated number of respondents: About 144,800 (total).

Frequency of response: On occasion.

Total estimated burden: About 117,000 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: About \$7,177,800 (per year), includes \$1,276,700 annualized capital or operation & maintenance costs.

Changes in Estimates: The annual respondent burden estimate in the currently approved CROMERR ICR (EPA ICR Number 2002.08) is 81,985 hours. The annual respondent burden estimate for this ICR (EPA ICR Number 2002.09) is anticipated to be about 117,000 hours. This represents an increase of 35,015 hours in the total estimated respondent burden compared with the ICR currently approved by OMB.

The increase in respondent burden can be attributed primarily to an estimated increase in the annual number of registrants with EPA's electronic document receiving system (*i.e.*, the Central Data Exchange (CDX)) over the past three years. In addition, as a result of technological improvements, the Agency now is able to obtain real world data on the frequency and amount of time a respondent spends accessing CDX pages and features. Based on this information, EPA has revised the burden estimates associated with some of the CDX registration and identity proofing activities. The Agency believes that the revised burden estimates more accurately reflect the resources spent by respondents conducting the various CDX activities. The overall change in respondent burden is considered an "adjustment," because it results from changes in the respondent universe estimates used in the development of the ICR.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024-22306 Filed 9-27-24; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2016-0731; FRL-12299-01-OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; EPA's Methane Challenge and Natural Gas STAR Programs (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), EPA's Methane Challenge and Natural Gas STAR Programs (EPA ICR Number 2547.03, OMB Control Number 2060-0722) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed revision of the current ICR, which is currently approved through December 31, 2024. Public comments were previously requested via the **Federal Register** on June 5, 2024 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before October 30, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2016–0731, to EPA online using www.regulations.gov (our preferred method), by email to a-and-r-Docket@epa.gov or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Andrew Meluch, Office of Atmospheric Programs, Climate Change Division, (6207A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: (202) 564–4762; email address: meluch.andrew@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed revision of the ICR, which is currently approved through December 31, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on June 5, 2024, during a 60-day comment period (89 FR 48164). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: This ICR revision proposes to significantly pare down the information reported to EPA's Natural Gas STAR and Methane Challenge Programs. Specifically, it proposes to

remove all of the partnership-specific reporting elements, based on the Programs' changes to sunset the "Partnership" aspects of the programs. EPA proposes to retain one key element of the ICR, the Service Provider Directory.

The oil and natural gas industry is the second largest source of anthropogenic methane emissions in the U.S., according to the Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2022. Since 1993, the U.S. Environmental Protection Agency's (EPA) Natural Gas STAR Program has encouraged oil and natural gas companies to adopt cost-saving technologies and practices that improve operational efficiency and reduce methane emissions. In 2016, EPA launched the Methane Challenge Program, which created a mechanism for oil and natural gas companies to make ambitious, voluntary commitments to reduce their methane emissions.

EPA has recently taken historic steps to tackle wasteful methane emissions from the oil and gas sector beyond voluntary action. The Inflation Reduction Act directed EPA to implement a suite of actions to swiftly reduce methane emissions through the creation of the Methane Emissions Reduction Program (MERP). On December 2, 2023, EPA announced final New Source Performance Standards and Emissions Guidelines (NSPS/EG) to regulate the oil and gas industry under the Clean Air Act, resulting in ambitious requirements to reduce methane from both new and existing sources.

In 2022, EPA announced the sunset of the Natural Gas STAR Program partnership agreements, implementation plans, and annual reporting. Based on the limited remaining potential for voluntary actions to reduce methane emissions, EPA will also be sunseting the Methane Challenge Partnership at the end of 2024. EPA will be transitioning the Natural Gas STAR Program outreach efforts to advance ambitious, sector-wide methane reductions through technical assistance and outreach under the Methane Emissions Reduction Program.

Therefore, based on these significantly reduced programmatic elements, for this revision of the program ICR, EPA proposes to remove all partnership reporting data elements and partnership-related information collection forms for both programs. This includes the removal of annual reporting forms, partnership agreements, and implementation plans. The sole programmatic element

involving voluntary information collection that EPA plans to retain is the Service Providers Directory. This directory's purpose is to share information about service and technology providers that can facilitate methane emission reduction activities in the oil and gas sector. These changes will result in a significant overall decrease in burden for this ICR.

Form Numbers: 5900–502.

Respondents/affected entities: Stakeholders seeking to join the Service Provider Directory.

Respondent's obligation to respond: Voluntary.

Estimated number of respondents: 50 per year (total).

Frequency of response: Respondents may fill out the Service Provider Directory form any time.

Total estimated burden: 12.5 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$1,394 (per year), which includes \$0 annualized capital or operation & maintenance costs.

Changes in the Estimates: There is a decrease of 4,846 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is due to the removal of all previous forms associated with the Natural Gas STAR and Methane Challenge Programs, maintaining only the Service Provider Directory form.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–22296 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2023–0287; FRL–12303–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Textile Mills Industry Data Collection (New)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Textile Mills Industry Data Collection (EPA ICR Number 2798.01, OMB Control Number 2040–NEW) to the Office of Management and Budget (OMB) for review and approval in

accordance with the Paperwork Reduction Act. This is a request for approval of a new collection. Public comments were previously requested via the **Federal Register** on November 28, 2023 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments must be submitted on or before October 30, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OW–2023–0287, to EPA online using www.regulations.gov (our preferred method), by email to OW-Docket@epa.gov, or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Paul Schriener, Engineering and Analysis Division, mail code 4301M, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 101–566–1076; email address: oir_submission@omb.eop.gov.

SUPPLEMENTARY INFORMATION: This is a request for approval of a new collection. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on November 28, 2023 during a 60-day comment period (88 FR 83125). This notice allows for an additional 30 days for public comments. Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301

Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit <http://www.epa.gov/dockets>.

Abstract: Under the Clean Water Act (CWA), the EPA develops effluent limitations guidelines (ELGs) to limit pollutants discharged from industrial point source categories. The EPA initially promulgated the Textiles Mills ELGs in 1974 (39 FR 24736, July 5, 1974) and amended the regulations in 1977 (42 FR 26979, May 26, 1977) and 1982 (47 FR 38810, September 2, 1982). Textiles mills receive and prepare fibers, transforming these materials into yarn, thread or webbing. Other mills convert yarns and webbing into fabric or related products and finish these materials. Many textile mills produce a final consumer product such as thread, yarn, fabric, hosiery, sheets, towels, and carpet. The current regulation covers wastewater discharges from textile mills which perform one or more of the following operations and discharge process wastewater directly to surface waters or indirectly to surface waters through publicly owned treatment works (POTWs): wool scouring, wool finishing, yarn and unfinished fabric manufacturing, woven fabric finishing, knit fabric finishing, carpet finishing, and nonwoven textile products of wool, cotton, synthetics, or blends of such fabrics.

As announced in the Effluent Guidelines Program Plan 15 (88 FR 6258, January 31, 2023), the EPA is continuing to evaluate the available data on types and concentrations of PFAS in wastewater discharged from textile mills. A questionnaire for the textile mills industry is necessary for the EPA to determine if the current regulations remain appropriate and, if warranted, to develop and propose new regulations. If new regulations are deemed to be warranted, the questionnaire is essential for the EPA to complete the detailed technical analysis necessary for the rulemaking. The EPA has identified and compiled mailing addresses for approximately 2,200 textile manufacturing facilities in the United States. A subsequent wastewater sampling program will require a subset of approximately 20 textile manufacturing facilities that completed the questionnaire to also collect wastewater samples and submit them to an EPA-contracted laboratory. Wastewater sampling data are critical for characterizing the wastewater generated and discharged by textile manufacturing facilities, as well as evaluating the effectiveness of pollution control practices and technologies to

reduce or eliminate PFAS in discharges. Additional objectives of the questionnaire and sampling will be to confirm the current population of textile mills, estimate the volume of wastewater discharged from the industry, confirm which mills still use PFAS in their processes, and gather facility-specific information and data relevant to generation and discharge of PFAS-containing wastewater by the industry.

Form Numbers: None.

Respondents/affected entities: Up to 2,243 textile mills in the U.S. will receive the questionnaire and no more than 20 facilities will be asked to conduct specific wastewater sampling.

Respondent's obligation to respond: Mandatory (Clean Water Act section 308).

Estimated number of respondents: 2,243 (total).

Frequency of response: One-time data collection.

Total estimated burden: 22,863 hours. Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$1,615,788 (per year), which includes \$10,576 annualized capital or operation & maintenance costs.

Changes in the estimates: This is a new data collection request and is a one-time temporary increase to the Agency's burden.

Courtney Kerwin,

Director, Information Engagement Division.

[FR Doc. 2024–22295 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2008–0707; FRL–12297–01–OMS]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Data Reporting Requirements for State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), "Data Reporting Requirements for State and Local Vehicle Emission Inspection and Maintenance (I/M) Programs" (EPA ICR No.1613.08, OMB Control No. 2060–0252) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed

extension of the ICR, which is currently approved through October 31, 2024. Public comments were previously requested via the **Federal Register** (89 FR 13910) on March 18, 2024, which included a 60-day comment period ending on May 17, 2024. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before October 30, 2024.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OAR–2008–0707, to (1) EPA online using www.regulations.gov (our preferred method), or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

FOR FURTHER INFORMATION CONTACT: Joe Winkelmann, Office of Transportation and Air Quality, U.S. Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan 48105; telephone number: 734–214–4255; email address: winkelmann.joseph@epa.gov.

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through October 31, 2024. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on March 18, 2024 during a 60-day comment period (89 FR 13910). This notice allows for an additional 30 days for public comments. Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at www.regulations.gov or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket

Center is 202–566–1744. For additional information about EPA's public docket, visit <https://www.epa.gov/dockets>.

Abstract: Clean Air Act section 182 and EPA's regulations (40 CFR part 51, subpart S) establish the requirements for state and local I/M programs that are included in state implementation plans (SIPs). To provide general oversight and support to these programs, EPA requires that state agencies with Basic and Enhanced I/M programs collect two varieties of reports for submission to the Agency:

- An annual report providing general program operating data and summary statistics, addressing the program's current design and coverage, a summary of testing data, enforcement program efforts, quality assurance and quality control efforts, and other miscellaneous information allowing for an assessment of the program's relative effectiveness; and

- A biennial report on any changes to the program over the two-year period and the impact of such changes, including any deficiencies discovered and corrections made or planned.

General program effectiveness is determined by the degree to which a program misses, meets, or exceeds the emission reductions committed to in the state's approved SIP, which, in turn, must meet or exceed the minimum emission reductions expected from the relevant performance standard, as promulgated under 40 CFR part 51, subpart S, in response to requirements established in section 182 of the Clean Air Act. This information is used by EPA to determine a program's progress toward meeting requirements under 40 CFR part 51, subpart S, and to provide background information in support of program evaluations. Additional information regarding the current renewal of this ICR as well as previous renewals can be found in Docket ID No. EPA–HQ–OAR–2008–0707.

Form Numbers: None.

Respondents/affected entities: State I/M program managers.

Respondent's obligation to respond: Mandatory (40 CFR 51.366).

Estimated number of respondents: 26 (total).

Frequency of response: Annual and biennial.

Total estimated burden: 2,236 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: \$165,776 (per year), includes \$0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in the total estimated respondent

burden compared with the ICR currently approved by OMB.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2024–22300 Filed 9–27–24; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT SYSTEM INSURANCE CORPORATION

Board of Directors Meeting

SUMMARY: Notice of the forthcoming regular meeting of the Board of Directors of the Farm Credit System Insurance Corporation (FCSIC), is hereby given in accordance with the provisions of the Bylaws of the FCSIC.

DATES: 10 a.m., Wednesday, October 9, 2024.

ADDRESSES: You may observe the open portions of this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to virtually attend, at least 24 hours in advance, visit FCSIC.gov, select "News & Events," then select "Board Meetings." From there, access the linked "Instructions for board meeting visitors" and complete the described registration process.

FOR FURTHER INFORMATION CONTACT: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

SUPPLEMENTARY INFORMATION: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public. The following matters will be considered:

Portions Open to the Public

- Approval of Minutes for July 10, 2024
- Quarterly FCSIC Financial Reports
- Quarterly Report on Insured Obligations
- Quarterly Report on Annual Performance Plan
- Annual Performance Plan
- Annual Budget

Portions Closed to the Public

- Quarterly Report on Insurance Risk

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2024–22320 Filed 9–27–24; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0806; FR ID 247433]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.” The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before October 30, 2024.

ADDRESSES: Comments should be sent to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function. Your comment must be submitted into www.reginfo.gov per the above instructions for it to be considered. In addition to submitting in www.reginfo.gov also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to PRA@fcc.gov and to Nicole.Ongele@fcc.gov. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page <http://www.reginfo.gov/>

[public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain), (2) look for the section of the web page called “Currently Under Review,” (3) click on the downward-pointing arrow in the “Select Agency” box below the “Currently Under Review” heading, (4) select “Federal Communications Commission” from the list of agencies presented in the “Select Agency” box, (5) click the “Submit” button to the right of the “Select Agency” box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission’s burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

OMB Control Number: 3060–0806.

Title: Universal Service-Schools and Libraries Universal Service Program, FCC Forms 470 and 471.

Form Number: FCC Forms 470 and 471.

Type of Review: Extension of a currently approved collection.

Respondents: State, Local or Tribal government institutions, and other not-for-profit institutions.

Number of Respondents and Responses: 25,000 respondents; 83,560 responses.

Estimated Time per Response: 4 hours for FCC Form 470 (3 hours for response; 1 hour for recordkeeping); 4 hours for FCC Form 471 (4 hours for response; 1 hour for recordkeeping).

Frequency of Response: On occasion and annual reporting requirements, and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 4(i), 4(j), 201–205, 214, 254, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 254, 303(r), 403 and 405.

Total Annual Burden: 236,890 hours.

Total Annual Cost: No Cost.

Needs and Uses: The Commission seeks approval to extend the existing collection 3060–0806 (FCC Forms 470 and 471). The Commission is reporting an adjustment to the number of respondents, responses, and the total burden hours within this submission based on FY 2023 data received from USAC. Collection of the information on FCC Forms 470 and 471 is necessary so that the Commission and USAC have sufficient information to determine if entities are eligible for funding pursuant to the schools and libraries support mechanism, to determine if entities are complying with the Commission’s rules, and to prevent waste, fraud, and abuse. In addition, the information is necessary for the Commission to evaluate the extent to which the E-rate program is meeting the statutory objectives specified in section 254(h) of the 1996 Act, and the Commission’s performance goals established in the E-rate Modernization Order and Second E-rate Modernization Order.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2024–22316 Filed 9–27–24; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Application Form for Membership on the Community Advisory Council (FR 1401; OMB No. 7100–0371).

DATES: Comments must be submitted on or before November 29, 2024.

ADDRESSES: You may submit comments, identified by FR 1401, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at

<https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- **Email:** regs.comments@federalreserve.gov. Include the OMB number or FR number in the subject line of the message.

- **Fax:** (202) 452-3819 or (202) 452-3102.

- **Mail:** Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M-4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all

comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 1401. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

- The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

- Ways to enhance the quality, utility, and clarity of the information to be collected;

- Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

- Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Application Form for Membership on the Community Advisory Council.

Collection identifier: FR 1401.

OMB control number: 7100-0371.

General description of collection: The Application Form for Membership on the Community Advisory Council (Application) is used to obtain information about the experience and qualification of persons seeking to be considered for membership on the Board's Community Advisory Council (CAC). The Application collects an applicant's contact information; details regarding current employment and areas of expertise; a resume, which typically includes information about employment history, education, and training; and a cover letter explaining why the applicant is interested in serving on the CAC and their primary qualifications. Applicants can voluntarily elect to provide additional information to support their application.

Proposed revisions: The Board proposes to modify the choices for the organization type, add choices for the areas of expertise on the application, and add two attestations. Organization type would now require a response should an applicant choose "Other" under non-profit or for-profit agencies. Additional subcategories under the government option would include "National," "State," and "Local." The four additional choices for primary and secondary areas of expertise would include "Artificial Intelligence," "Disaster Recovery and Resiliency," "Financial Education," and "Health." The application would have two attestations: (1) affirming there is no applicant relationship to an employee of the Board of Governors, Reserve Bank, or a Board or Reserve Bank advisory council, and (2) that no officer or senior executive of the applicant's current organization has a relationship to an employee of the Board of Governors, Reserve Bank, or a Board or Reserve Bank advisory council. If there is a relationship, applicants would be asked to disclose the name of the employee, director, advisory council member, officer, or senior executive with the relationship to the applicant. Applicants would be asked to indicate the nature of the relationship and whether the employee, director, advisory council member, officer, or senior executive is or was associated with the Board or a Reserve Bank and if at a Reserve Bank, indicate which one. Revisions would be effective as of the 2025 application period.

Frequency: Annual.

Respondents: Individuals seeking to be considered for membership on the CAC.

Total estimated number of respondents: 300.

Total estimated change in burden: 23.

Total estimated annual burden hours: 323.

Board of Governors of the Federal Reserve System, September 25, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024-22323 Filed 9-27-24; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Procurement Solicitation Package (FR 1400; 7100-0180).

DATES: Comments must be submitted on or before November 29, 2024.

ADDRESSES: You may submit comments, identified by FR 1400, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.

- *Email:* regs.comments@federalreserve.gov. Include the OMB number or FR number in the subject line of the message.

- *Fax:* (202) 452-3819 or (202) 452-3102.

- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M-4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo

identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 1400. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;

- b. The accuracy of the Board's estimate of the burden of the proposed 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;

- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Procurement Solicitation Package.

Collection identifier: FR 1400.

OMB control number: 7100-0180.

General description of collection: The Board uses the Procurement Solicitation Package, which includes a supplier database and solicitation documents as appropriate, to assist in the competitive process of soliciting proposals from suppliers of goods and services. The Procurement Solicitation Package includes the Supplier Registration System (FR 1400A), the Solicitation Package (Solicitation, Offer, and Award Form; Supplier Information Form; Past Performance Data Sheet; and Past Performance Questionnaire) (FR 1400B), the Supplier Risk Management Offeror Questionnaire (FR 1400C), and the Subcontracting Report (FR 1400D). The information collected through the Procurement Solicitation Package is necessary for Board staff to fairly and accurately evaluate the merits of suppliers' proposals, to select the proposal most advantageous to the Board, taking into account price and other key factors, and to award and administer contracts after a supplier has been selected.

Proposed revisions: The Board proposes to clear a new, event-generated form, the Contractor Conflict of Interest Screening (FR 1400E). The FR 1400E will be used to screen potential contractors that would be conducting research pertaining to the Board's mission (e.g., monetary policy, financial stability, or supervision and regulation) and/or have access to sensitive Board information such as confidential

supervisory information, in order to determine if they have any conflict of interests. The 1400E has four main sections: Financial Interests, Outside Employment or Consulting in Banking or Economic Industries, Work with Foreign Governments, and Relatives in Related Businesses. Applicants are asked to list assets that they, their spouse, or their minor children hold that might be conflicts of interest. The potential contractor is also asked to list any outside employment that is relevant to the Board, including any employment for or with a foreign government, within the past three years. Lastly, the applicant is asked to specify any position their spouse, child, parent, or sibling currently holds at a financial institution (such as a bank, bank holding company, savings and loan holding company, thrift or savings and loan association, or affiliate of any such entity; consulting or law firm advising financial institutions; economic forecasting or consulting firm; or a vendor/contractor) that works with the Federal Reserve System.

Frequency: FR 1400A/FR 1400B/FR 1400C, event-generated; FR 1400D, semiannual.

Respondents: Businesses and individuals.

Total estimated number of respondents: 550.

Estimated average hours per response: FR 1400A, 0.67; FR 1400B, 81; FR 1400C, 7.6; FR 1400D, 0.7; FR 1400E, 0.45.

Total estimated change in burden: 27 hours.

Total estimated annual burden hours: 24,979.

Board of Governors of the Federal Reserve System, September 25, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024–22322 Filed 9–27–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) is adopting a proposal to extend for three years, without revision, the Interagency Guidance on Managing Compliance and Reputation Risks for Reverse Mortgage Products (FR 4029; OMB No. 7100–0330).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452–3884.

Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. The OMB inventory, as well as copies of the PRA Submission, supporting statements (which contain more detailed information about the information collections and burden estimates than this notice), and approved collection of information instrument(s) are available at <https://www.reginfo.gov/public/do/PRAMain>. These documents are also available on the Federal Reserve Board's public website at <https://www.federalreserve.gov/apps/reportingforms/home/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 4029.

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection

Collection title: Interagency Guidance on Managing Compliance and Reputation Risks for Reverse Mortgage Products.

Collection identifier: FR 4029.

OMB control number: 7100–0330.

General description of collection: In August 2010, the Federal Financial Institutions Examination Council FFIEC, on behalf of its member agencies, published a **Federal Register** notice adopting supervisory guidance titled “Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks.” The guidance is designed to assist financial institutions with risk management and efforts to ensure that their reverse mortgage lending practices adequately address

consumer compliance and reputation risks. The reverse mortgage guidance discusses the disclosures and recordkeeping required by federal laws and regulations and also discusses consumer disclosures that financial institutions typically provide as a standard business practice. Certain portions of the guidance are information collections subject to PRA requirements and are what are included in the FR 4029.

Frequency: Event-generated.

Respondents: State member banks, Edge and Agreement corporations, bank holding companies, savings and loan holding companies, foreign banking organizations, and branches and agencies of foreign banks.

Total estimated number of respondents: 5.

Total estimated annual burden hours: 72.

Current actions: On March 29, 2024, the Board published a notice in the **Federal Register** (89 FR 22148) requesting public comment for 60 days on the extension, without revision, of the FR 4029. The comment period for this notice expired on May 28, 2024. The Board did not receive any comments.

Board of Governors of the Federal Reserve System, September 25, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024–22325 Filed 9–27–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at <https://www.federalreserve.gov/foia/request.htm>. Interested persons may

express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments received are subject to public disclosure. In general, comments received will be made available without change and will not be modified to remove personal or business information including confidential, contact, or other identifying information. Comments should not include any information such as confidential information that would not be appropriate for public disclosure.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551-0001, not later than October 15, 2024.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414. Comments can also be sent electronically to Comments.applications@chi.frb.org:

1. *The Johnson 2024 Dynasty Trust, Milwaukee, Wisconsin, Darin Johnson, Sutherland, Iowa, and Peter J. Wilder, Pewaukee, Wisconsin, as co-trustees and Jenny Johnson, Sutherland, Iowa as Grantor, and Jenny Johnson, Sutherland, Iowa*; to join the Johnson Family Control Group, a group acting in concert, to acquire voting shares of Old O'Brien Banc Shares, Inc., and thereby indirectly acquire voting shares of Security State Bank, both of Sutherland, Iowa.

2. *Grant Dean; the John C. Dean Grandchildren's Trust, Grant Dean and Larry W. Winum as co-trustees; the Carol C. Dean Grandchildren's Trust, Grant Dean and Larry W. Winum as co-trustees; and the Larry W. Winum Revocable Trust, Larry W. Winum as trustee, all of Glenwood, Iowa*; as a group acting in concert, to retain voting shares of Glenwood Bancorporation, and thereby indirectly retain voting shares of Glenwood State Bank, both of Glenwood, Iowa.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2024-22387 Filed 9-27-24; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Report of Selected Money Market Rates (FR 2420; OMB No. 7100-0357).

DATES: Comments must be submitted on or before November 29, 2024.

ADDRESSES: You may submit comments, identified by FR 2420, by any of the following methods:

- *Agency Website:* <https://www.federalreserve.gov/foia/proposedregs.aspx>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- *Email:* regs.comments@federalreserve.gov. Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452-3819 or (202) 452-3102.
- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M-4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M-4365A, 2001 C St. NW, Washington, DC 20551, between 9:00 a.m. and 5:00 p.m. on weekdays, except for Federal holidays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building,

Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, nuha.elmaghrabi@frb.gov, (202) 452-3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms/review> or may be requested from the agency clearance officer, whose name appears above. On the page displayed at the link above, you can find the supporting information by referencing the collection identifier, FR 2420. Final versions of these documents will be made available at <https://www.reginfo.gov/public/do/PRAMain>, if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed 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;
- d. Ways to minimize the burden of information collection on respondents,

including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Report of Selected Money Market Rates.

Collection identifier: FR 2420.

OMB control number: 7100-0357.

General description of collection: The FR 2420 is a transaction-based report that collects daily liability data on federal funds purchased, selected borrowings from non-exempt entities, Eurodollar transactions, and time deposits and certificates of deposits from (1) domestically chartered commercial banks and savings associations that have \$18 billion or more in total assets as well as those that have total assets above \$5 billion but less than \$18 billion and meet the activity threshold, (2) U.S. branches and agencies of foreign banks with total third-party assets of \$2.5 billion or more, and (3) significant banking organizations that are active participants in money markets. The FR 2420 also collects daily data on Eurodollar transactions from International Banking Facilities (IBFs) of the above-referenced institutions. The FR 2420 data are used in the publication of the Effective Federal Funds Rate and Overnight Bank Funding Rate and in analysis of current money market conditions.

Proposed revisions: The Board proposes to add several fields to the FR 2420 reporting form, with supporting information added to the FR 2420 instructions, to enhance money market monitoring. The Board proposes to add Part E to the reporting form to collect information on depository institutions' secured borrowings via Federal Home Loan Banks (FHLBs) advances with 1 year or less to maturity at origination. An additional proposed section of the reporting form, Part F, serves to collect information on rates paid by depository institutions for certain non-maturity demand deposits by FHLBs. The Board proposes the addition of one new item in Part C of the reporting form that would denote whether reported time deposits represent brokered transactions. The proposed FR 2420

revisions would be effective 12 months after the publication of a final notice in the **Federal Register**, with an approximate January 2026 as of date.

The proposed additions to the FR 2420 align with the Board's monetary policy mandate. The proposed additions enhance the Federal Reserve's ability to monitor bank funding and money markets, especially under changing conditions.

Domestic banks that are FHLB members rely upon FHLB advances, which are loans secured by collateral, as a key source of funding. Short-term advances with maturities under one year are a widely used alternative to the other wholesale money market sources that are already subject to FR 2420 reporting. The Federal Reserve currently lacks the ability to monitor advance borrowings by all banks subject to FR 2420 reporting with data on the interest rates paid on advances or on dollar volumes of borrowings at a higher frequency than quarterly. In addition, the Federal Reserve currently lacks the ability to monitor volumes and rates for FHLBs' interest-bearing deposits. These deposits represent a significant dollar volume as compared to the other unsecured funding types currently subject to FR 2420 data collection.

Reporting Form Revisions

The Board proposes to add items to the FR 2420 reporting form to collect information on brokered deposits, short-term FHLB advances, and interest-bearing non-maturity deposits placed by FHLBs.

The Board proposes to add a field to the existing Part C of FR 2420 to denote which reported time deposits represent brokered transactions.

The proposed Part E of the reporting form concerns FHLB advances with an original maturity of one year or less. The reporting form fields in Part E would be similar to other data for term instruments reported on the FR 2420. Specifically, covered institutions would be required to report the dollar amount, origination date, settlement date, maturity date, interest rate, day-count convention, the interest rate adjusted for estimated FHLB dividends, whether the advance is fixed- or floating-rate, whether the advance is amortizing, and whether there are embedded options. For floating-rate advances, the spread, reference rate, and reset period would be required. Respondents would report on each business day their outstanding FHLB advances with an original maturity of one year or less.

The proposed Part F of the reporting form concerns interest-bearing demand deposits from FHLBs. The proposed

additional reporting form fields in Part F include the dollar amount (*i.e.*, account balance), trade date, interest rate, and day-count convention, reported for each business day.

Instruction Revisions

Proposed instruction changes provide guidance to covered institutions on how to report the proposed items pertaining to brokered deposits, FHLB advances, and deposits by FHLBs. Specific reporting instruction sections are included for FHLB advances and demand deposits by FHLBs, and related definitions are added to the glossary.

Proposed additional instructions for time deposits in Part C include directions to specify a pre-set value for whether a time deposit transaction is brokered or not. Brokered deposits follow the existing definition in the FR 2420 glossary. In addition, references to London Interbank Offered Rate (LIBOR) among reference rates in Part C are removed in the proposed revisions, as the production of U.S. dollar LIBOR will have ceased by the proposed implementation date for the revisions.

The instructions regarding FHLB advances in Part E are generally consistent with those for other parts of the FR 2420. For FHLB advances with under one year to maturity at origination, respondents are directed to report the dollar amount of the advance, date on which the advance is originated, date on which funds settle, interest rate, interest rate adjusted for estimated FHLB dividends received by the institution, interest-rate spread for floating-rate advances, and maturity date of the advance. The instructions specify pre-set values for the interest rate's day-count convention, whether the interest rate is fixed or floating, reset period for floating-rate advances, reference rate used for floating-rate advances, whether the advance is amortizing or non-amortizing, and any embedded options in the advance. Institutions are directed to report outstanding advances each business day.

The instructions pertaining to the proposed Part F specify that only interest-bearing demand deposits by FHLBs should be reported. The term "demand deposits" is defined in the glossary. Instructions are provided directing institutions to report the dollar amount (*i.e.*, end-of-day account balance in dollars), trade date, interest rate, and day-count convention for each business day.

Frequency: Daily.

Respondents: Commercial banks, savings associations, U.S. branches and agencies of foreign banks, IBFs, and

significant banking organizations representing entities actively participating in the federal funds and/or other money markets.

Total estimated number of respondents: 277.

Total estimated change in burden: 14,000.

Total estimated annual burden hours: 133,825.

Board of Governors of the Federal Reserve System, September 25, 2024.

Benjamin W. McDonough,

Deputy Secretary and Ombuds of the Board.

[FR Doc. 2024–22324 Filed 9–27–24; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 232 3042]

DoNotPay, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement; request for comment.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices. The attached Analysis of Proposed Consent Order to Aid Public Comment describes both the allegations in the complaint and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before October 30, 2024.

ADDRESSES: Interested parties may file comments online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Please write “DoNotPay, Inc.; File No. 232 3042” on your comment and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, please mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex D), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Keith Fentonmiller (202–326–2775), Attorney, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and

FTC Rule § 2.34, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of 30 days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained at <https://www.ftc.gov/news-events/commission-actions>.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before October 30, 2024. Write “DoNotPay, Inc.; File No. 232 3042” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the <https://www.regulations.gov> website.

Because of heightened security screening, postal mail addressed to the Commission will be subject to delay. We strongly encourage you to submit your comments online through the <https://www.regulations.gov> website. If you prefer to file your comment on paper, write “DoNotPay, Inc.; File No. 232 3042” on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Mail Stop H–144 (Annex D), Washington, DC 20580.

Because your comment will be placed on the publicly accessible website at <https://www.regulations.gov>, you are solely responsible for making sure your comment does not include any sensitive or confidential information. In particular, your comment should not include sensitive personal information, such as your or anyone else’s Social Security number; date of birth; driver’s license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure your comment does not include sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any “trade secret or any commercial or financial information which . . . is privileged or confidential”—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule § 4.10(a)(2), 16 CFR 4.10(a)(2)—including competitively

sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled “Confidential,” and must comply with FTC Rule § 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule § 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the <https://www.regulations.gov> website—as legally required by FTC Rule § 4.9(b)—we cannot redact or remove your comment from that website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule § 4.9(c), and the General Counsel grants that request.

Visit the FTC website at <https://www.ftc.gov> to read this document and the news release describing the proposed settlement. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments it receives on or before October 30, 2024. For information on the Commission’s privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an agreement containing a consent order from DoNotPay, Inc. (“DoNotPay”).

The proposed consent order (“proposed order”) has been placed on the public record for thirty days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take appropriate action or make final the agreement’s proposed order.

This matter involves DoNotPay’s reliance on the emergence of new technology like artificial intelligence

(AI) to market its DoNotPay Service (“the Service”) as a cutting-edge solution for producing legal documents. DoNotPay described its Service as “the world’s first robot lawyer” and as an “AI lawyer” capable of performing legal services such as drafting “ironclad” demand letters, contracts, complaints for small claims court; challenging speeding tickets; and appealing parking tickets. The proposed complaint alleges that the Service was not designed to operate like a human lawyer, and that the company’s claims were false, misleading, or unsubstantiated.

The proposed complaint also alleges that DoNotPay falsely claimed that the Service used artificial intelligence and other technology to analyze a consumer’s small business website for federal and state law violations and could save a consumer hundreds of thousands of dollars in potential legal fees. Further, the proposed complaint alleges that DoNotPay falsely claimed that the General Membership subscription to the DoNotPay Service included some features that, in fact, were not available to General Membership subscribers.

The proposed order contains provisions designed to prevent DoNotPay from engaging in these and similar acts and practices in the future. Provision I prohibits DoNotPay from representing that its Service or any other internet-enabled product or service that it offers operates like a human lawyer or any other type of professional, unless that representation is not misleading and DoNotPay possesses competent and reliable evidence to substantiate the representation. Provision II prohibits DoNotPay from misrepresenting that its Service or any other internet-enabled product or service is capable of analyzing or evaluating a website or any other document for federal and state law violations or will save consumers legal fees. This provision also prohibits misrepresentations about the features, benefits, or attributes included with the purchase of, or subscription to, any such product or service.

Provisions III requires DoNotPay to pay the Commission \$193,000 in monetary relief. Provision IV describes the procedures and legal rights related to that payment. Provision V requires DoNotPay to provide the Commission customer contact information upon request in order to administer consumer redress. Provision VI requires DoNotPay to provide eligible customers with notice of the consent order and the settlement.

Provisions VII through XI are reporting and compliance provisions. Provision VII mandates that DoNotPay

acknowledge receipt of the order, distribute the order to principals, officers, and certain employees and agents, and obtain signed acknowledgements from them. Provision VIII requires DoNotPay to submit compliance reports to the Commission one year after the order’s issuance and submit notifications when certain events occur. Under Provision IX, DoNotPay must create certain records for 10 years and retain them for five years. Provision X requires DoNotPay to provide information or documents necessary for the Commission to monitor compliance with the order during the period of the order’s effective dates. Finally, Provision XI provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the complaint or proposed order, or to modify in any way the proposed order’s terms.

By direction of the Commission.

Joel Christie,
Acting Secretary.

Concurring Statement of Commissioner Melissa Holyoak, Joined by Chair Lina M. Khan

The Commission votes today to accept for public comment an administrative complaint and consent agreement with DoNotPay, Inc., resolving allegations that the company made false and unsubstantiated claims that its artificial intelligence (“AI”)-powered service could function like a human lawyer; that its service could analyze a business website for law violations based solely on the business’s email address; and that some legal services were available as part of its general membership when in fact they were not.

For consumers to benefit from AI (as with any technology), they must be able to trust the claims that companies make about its capabilities. Importantly, this settlement does not suggest that consumers should use expensive professional services, or that companies should avoid offering innovative products that reduce the need for high-priced lawyers.¹ The misdeeds of a few

bad apples shouldn’t dampen pro-consumer innovation. Indeed, we are hopeful that AI will give consumers access to many types of services at lower cost and with greater convenience than has previously been available. Today’s settlement shows the Commission’s important role in eliminating deception from the market so that honest firms can compete to offer consumers innovative, trustworthy products.

Concurring Statement of Commissioner Andrew N. Ferguson

The Commission today issues an administrative complaint and accepts a proposed consent agreement with DoNotPay for deceptively marketing a generative artificial intelligence (AI) system.¹ The Commission’s complaint alleges that DoNotPay advertised its service as “the world’s first robot lawyer” that could “fight corporations, beat bureaucracy and sue anyone at the press of a button.”² DoNotPay told consumers it could “Generate Perfectly Valid Legal Documents in No Time” and guide consumers through filing a lawsuit.³ The DoNotPay website prominently featured a quote that it claimed was from the *Los Angeles Times*: “What this robot lawyer can do is astonishingly similar—if not more—to what human lawyers do.”⁴ But this quote was actually from a high-school student’s opinion piece in the *High School Insider* website, a blog hosted by the *Los Angeles Times* for young people.⁵ DoNotPay told consumers that “[w]hile it is possible to handle suing for assault on your own, it may not be the best approach” and advised them that “it is easier to have the expertise of an entity such as DoNotPay on your side to avoid complications.”⁶ The Commission’s complaint alleges that DoNotPay fell far short of these promises, and that DoNotPay employees had not even tested the quality and accuracy of the legal documents and advice generated by the service.⁷ In some cases, the Commission alleges that DoNotPay advertised features that it simply did not provide.⁸

I am happy to vote for this complaint. It is a great example of the Commission enforcing Section 5 of the Federal Trade

innovative, affordable and competitive market for legal services”).

¹ *In re DoNotPay, Inc.*, Complaint (“Complaint”) & Decision and Order.

² Complaint ¶ 9.

³ *Id.* ¶ 17.

⁴ *Id.* ¶ 10.

⁵ *Id.* ¶ 11.

⁶ *Id.* ¶ 17.

⁷ *Id.* ¶ 20.

⁸ *Id.* ¶ 24.

¹ Cf. Sandbox Information for Interested Applicants, Utah Office of Legal Services Innovation, <https://utahinnovationoffice.org/info-for-interested-applicants/> (last visited Sept. 12, 2024) (describing Utah’s “legal regulatory sandbox,” which “enables authorized entities to employ innovative legal service methods and business models . . . to ensure consumers have access to a well-developed, high-quality,

Commission Act⁹ against businesses that deceive consumers about the capabilities of their generative AI services. Businesses that exploit media hype and consumer unfamiliarity with this new technology to cheat people out of their hard-earned money should expect a knock on the door from the Commission and other law-enforcement agencies. In this case, consumers who relied on DoNotPay's wholly inadequate legal advice not only wasted their money but were also likely induced into reliance on the inadequate legal contracts and ineffective legal filings generated by DoNotPay. It does not take a vivid imagination to imagine how such reliance could have ruinous consequences. The Commission's staff deserves great credit for bringing and settling this case.

I write separately to ensure that no one confuses what we are doing today—holding generative-AI companies to the same standards for honest-business conduct that apply to every industry—with the regulation of AI *qua* AI. Congress has given us the power to enforce prohibitions against unfair methods of competition and unfair or deceptive acts and practices.¹⁰ We may reach some AI-related activity incidental to enforcing those prohibitions, as we do today. But Congress has not given us power to regulate AI standing alone. We should not succumb to the panicked calls for the Commission to act as the country's comprehensive AI regulator.¹¹

I write also to clarify that my vote should not be taken as support for the State Bar of California's claim that DoNotPay was engaged in the unauthorized practice of law.¹² The Commission does not enforce state occupational-licensing laws like California's unauthorized-practice-of-law prohibition.¹³ And if a company were to create a computer system capable of giving accurate legal advice and drafting effective legal documents, or honestly advertise a system that provides something less, I doubt that the aggressive enforcement of lawyers'

monopoly on legal services would serve the public interest.

[FR Doc. 2024–22400 Filed 9–27–24; 8:45 am]

BILLING CODE 6750–01–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Proposed Collection; Comment Request; Extension

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) is seeking public comments on its proposal to extend for an additional three years the current Paperwork Reduction Act (“PRA”) clearance for information collection requirements contained in the Children's Online Privacy Protection Rule (“COPPA Rule” or “Rule”). That clearance expires on April 30, 2025.

DATES: Comments must be filed by November 29, 2024.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “COPPA Rule: Paperwork Comment, FTC File No. P155408” on your comment, and file your comment online at <https://www.regulations.gov> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: James Trilling, Attorney, (202) 326–3497, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Title of Collection: Children's Online Privacy Protection Rule, 16 CFR part 312.

OMB Control Number: 3084–0117.

Type of Review: Extension of currently approved collection.

Affected Public: Private Sector:

Businesses and other for-profit entities.
Estimated Annual Burden Hours: 17,700.

Estimated Annual Labor Costs: \$8,687,169.

Estimated Annual Non-Labor Costs: \$0.

Abstract: The COPPA Rule, 16 CFR part 312, requires commercial websites

and online services to provide notice and obtain parental consent before collecting, using, or disclosing personal information from children under age thirteen, with limited exceptions. The COPPA Rule contains certain statutorily required notice, consent, and other requirements that apply to operators of any commercial website or online service directed to children that collect personal information, and operators of any commercial website or online service with actual knowledge that they are collecting personal information from children. The Rule also applies to operators that have actual knowledge that they are collecting personal information directly from users of another website or online service that is directed to children. Covered operators must, among other things: (1) provide online notice and direct notice to parents of how they collect, use, and disclose children's personal information; (2) obtain the prior consent of the child's parent in order to engage in such collection, use, and disclosure; (3) provide reasonable means for the parent to obtain access to the information and to direct its deletion; and (4) establish procedures that protect the confidentiality, security, and integrity of personal information collected from children.

Burden Statement

A. Annual Hours Burden: 17,600 hours.

I. New Entrant Operators' Disclosure Burden

Based on public comments received by the Commission during its 2013 COPPA Rule amendments rulemaking,¹ FTC staff estimates that the Rule affects approximately 280 new operators per year.² FTC staff maintains its longstanding estimate that new operators of websites and online services will require, on average, approximately 60 hours to draft a privacy policy and design mechanisms to provide the required online privacy notice and, where applicable, the direct notice to parents.³ This yields an estimated annual hours burden of 16,800 hours (280 respondents × 60 hours).

II. Safe Harbor Applicant Reporting Requirements

Operators can comply with the COPPA Rule by meeting the terms of

¹ 78 FR 3972, 4005 (Jan. 17, 2013).

² This consists of certain traditional website operators, mobile app developers, plug-in developers, and advertising networks.

³ See, e.g., 80 FR 76491 (Dec. 9, 2015); 84 FR 1466 (Feb. 4, 2019).

⁹ 15 U.S.C. 45.

¹⁰ *Id.* 45(a)(2).

¹¹ See Dissenting Statement of Commissioner Andrew N. Ferguson, Joined by Commissioner Melissa Holyoak, In the Matter of Rytr LLC, at 9–10 (Sept. 25, 2024); Concurring and Dissenting Statement of Commissioner Andrew N. Ferguson, A Look Behind the Screens: Examining the Data Practices of Social Media and Video Streaming Services, at 10–11 (Sept. 19, 2024).

¹² Complaint ¶¶ 25–27.

¹³ See Cal. Bus. & Prof. Code § 6125.

Commission approved self-regulatory program guidelines.⁴ While the submission of industry self-regulatory guidelines to the agency is voluntary, the COPPA Rule sets out the criteria for approval of guidelines and the materials that must be submitted as part of an application for approval of such self-regulatory guidelines. Based on industry input, FTC staff estimates that it would require, on average, 265 hours per new safe harbor program applicant to prepare and submit its safe harbor proposal in accordance with § 312.11(c) of the Rule, 16 CFR 312.11(c).⁵ Given that several safe harbor programs are already available to operators of websites and online services, FTC staff anticipates that no more than one additional safe harbor applicant is likely to submit a request within the next three years of PRA clearance. Thus, FTC staff estimates that annualized burden attributable to this requirement would be approximately 88 hours per year (265 hours ÷ 3 years), which is rounded to 100 hours.

III. Annual Audit and Report for Safe Harbor Programs

The COPPA Rule requires safe harbor programs to audit their members at least annually and submit annual reports to the Commission on the aggregate results of these member audits. The burden for conducting member audits and preparing these reports likely varies by safe harbor program depending on the number of members. FTC staff estimates that conducting audits and preparing reports will require approximately 100 hours per program per year. Aggregated for one new safe harbor (100 hours) and six existing safe harbor (600 hours) programs, this amounts to an estimated cumulative reporting burden of 700 hours per year (7 respondents × 100 hours).

IV. Safe Harbor Program Recordkeeping Requirements

FTC staff understands that most of the records listed in the COPPA Rule's safe harbor recordkeeping provisions consist of documentation that covered entities retain in the ordinary course of business

irrespective of the COPPA Rule. As noted above, OMB excludes from the definition of PRA burden, among other things, recordkeeping requirements that customarily would be undertaken independently in the normal course of business. In FTC staff's view, any incremental burden, such as that for maintaining the results of independent assessments under § 312.11(d), would be marginal.

B. Estimated Annual Labor Costs:
\$8,687,169.

I. New Entrant Operators' Disclosure Burden

Consistent with its past estimates and based on its 2013 rulemaking record, FTC staff assumes that the time spent on compliance for new operators covered by the COPPA Rule would be apportioned five to one between legal (outside counsel lawyers or similar professionals) and technical (e.g., computer programmers, software developers, and information security analysts) personnel. FTC staff therefore estimates that outside counsel costs will account for 14,000 of the estimated 16,800 hours required as estimated in Section A.I above. FTC staff anticipates that the workload among law firm partners and associates for assisting with COPPA compliance would be distributed among attorneys at varying levels of seniority. Assuming two-thirds of such work is done by junior associates at a rate of approximately \$510 per hour, and one-third by senior partners at approximately \$798 per hour, the weighted average of outside counsel costs would be approximately \$606 per hour.⁶ FTC staff anticipates that computer programmers responsible for posting privacy policies and implementing direct notices and parental consent mechanisms would

account for the remaining 2,800 hours. FTC staff estimates an hourly wage of \$56.03 for technical personnel, based on Bureau of Labor Statistics ("BLS") data.⁷ Accordingly, associated annual labor costs would be \$8,640,884 [(14,000 hours × \$606/hour) + (2,800 hours × \$56.03/hour)] for the estimated 280 new operators.

II. Safe Harbor Applicant Reporting Requirements

Previously, industry sources have advised that all of the labor to comply with new safe harbor applicant requirements would be attributable to the efforts of in-house lawyers.⁸ To determine in-house legal costs, FTC staff applied an approximate average between the BLS reported mean hourly wage for lawyers (\$84.84),⁹ and estimated in-house hourly attorney rates (\$300) that are likely to reflect the costs associated with some safe harbor applicant costs. This yields an approximate hourly rate of \$193. Applying this hourly labor cost estimate to the hours burden associated with approval for a new safe harbor application yields an estimated annual labor cost burden of \$19,300 (100 hours × \$193).

III. Annual Audit and Report for Safe Harbor Programs

FTC staff assumes that compliance officers, at a mean hourly wage of \$38.55, will prepare annual reports.¹⁰ Applying this hourly labor cost estimate to the hours burden associated with preparing annual audit reports yields an estimated annual labor cost burden of \$26,985 (700 hours × \$38.55).

IV. Safe Harbor Program Recordkeeping Requirements

For the reasons stated in Section A.IV above, FTC staff anticipates that the labor costs associated with safe harbor program recordkeeping are *de minimis*.

C. Estimated Annual Non-Labor Costs: \$0.

FTC staff understands that covered operators already have in place the computer equipment and software necessary to comply with the Rule's

⁴ See 16 CFR 312.11(c). Approved self-regulatory guidelines can be found on the FTC's website at http://www.ftc.gov/privacy/privacyinitiatives/childrens_shp.html.

⁵ See 83 FR 49557 (Oct. 2, 2018). FTC staff believes that most of the records submitted with a safe harbor request would be those that these entities have kept in the ordinary course of business. Under 5 CFR 1320.3(b)(2), OMB excludes from the definition of PRA burden the time and financial resources needed to comply with agency-imposed recordkeeping, disclosure, or reporting requirements that customarily would be undertaken independently in the normal course of business.

⁶ These estimates are drawn from the "Fitzpatrick Matrix." The Fitzpatrick Matrix was developed to provide a tool for the "reliable assessment of fees charged for complex [civil] federal litigation," in the District of Columbia, and has been adopted by, among others, the Civil Division of the United States Attorney's Office for the District of Columbia. See Fitzpatrick Matrix, Civil Division of the United States Attorney's Office for the District of Columbia, *Fitzpatrick Matrix, 2013–2024* (quoting *DL v. District of Columbia*, 924 F.3d 585, 595 (D.C. Cir. 2019)), available at <https://www.justice.gov/usao-dc/media/1353286/dl?inline>. It is used here as a proxy for market rates for litigation counsel in the Washington, DC area. For 2024, the Fitzpatrick Matrix sets forth estimates ranging from \$500 per hour for the most junior associates to \$864 per hour for the most senior partners. See *id.* For the purpose of this analysis, FTC staff determined the hourly rate for work performed by junior associates based on the average of the 2024 hourly rates for junior associates with zero to one year of experience, and the hourly rate for work performed by senior partners based on the average of the 2024 hourly rates for senior partners with more than eleven years of experience.

⁷ The estimated mean hourly wages for technical personnel (\$56.03) is based on an average of the mean hourly wage for computer programmers, software developers, information security analysts, and web developers as reported by the Bureau of Labor Statistics. See Bureau of Labor Statistics, *Occupational Employment and Wages—May 2023, Table 1* (May 2023), available at <https://www.bls.gov/news.release/ocwage.t01.htm> (National employment and wage data from the Occupational Employment Statistics survey by occupation) [hereinafter "BLS Table 1"].

⁸ See 83 FR 49558 (Oct. 2, 2018).

⁹ See BLS Table 1 (attorneys).

¹⁰ See BLS Table 1 (compliance officers, \$38.55).

notice requirements. Accordingly, the predominant costs incurred by operators are the aforementioned labor costs. Similarly, FTC staff anticipates that covered entities already have in place the means to retain and store the records that must be kept under the Rule's safe harbor recordkeeping provisions, because they are likely to retain such records independent of the Rule. Accordingly, FTC staff estimates that the capital and non-labor costs associated with Rule compliance are *de minimis*.

Request for Comment

Pursuant to section 3506(c)(2)(A) of the PRA, the FTC invites comments on: (1) whether the disclosure and recordkeeping requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (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.

For the FTC to consider a comment, we must receive it on or before November 29, 2024. Your comment, including your name and your state, will be placed on the public record of this proceeding, including the <https://www.regulations.gov> website.

You can file a comment online or on paper. Due to heightened security screening, postal mail addressed to the Commission will be subject to delay. We encourage you to submit your comments online through the <https://www.regulations.gov> website.

If you file your comment on paper, write "COPPA Rule: Paperwork Comment, FTC File No. P155408" on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC-5610 (Annex J), Washington, DC 20580.

Because your comment will become publicly available at <https://www.regulations.gov>, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive

health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information, such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must (1) be filed in paper form, (2) be clearly labeled "Confidential," and (3) comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted publicly at www.regulations.gov, we cannot redact or remove your comment unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before November 29, 2024. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see <https://www.ftc.gov/site-information/privacy-policy>.

Josephine Liu,

Assistant General Counsel for Legal Counsel.

[FR Doc. 2024-22379 Filed 9-27-24; 8:45 am]

BILLING CODE 6750-01-P

FEDERAL TRADE COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice of modified systems of records.

SUMMARY: The FTC is making technical revisions to several of the notices that it has published under the Privacy Act of 1974 to describe its systems of records. This action is intended to make these notices clearer, more accurate, and up-to-date.

DATES: These modified systems will be applicable on September 30, 2024.

FOR FURTHER INFORMATION CONTACT: G. Richard Gold, Attorney, Office of the General Counsel, FTC, 600 Pennsylvania Avenue NW, Washington, DC 20580, (202) 326-3355 or rgold@ftc.gov.

SUPPLEMENTARY INFORMATION: To inform the public, the FTC publishes in the **Federal Register** and posts on its website a "system of records notice" (SORN) for each system of records that the FTC currently maintains within the meaning of the Privacy Act of 1974, as amended, 5 U.S.C. 552a ("Privacy Act" or "Act"). See <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems>. The Privacy Act protects records about individuals in systems of records collected and maintained by Federal agencies. (A system is not a "system of records" under the Act unless the agency maintains and retrieves records in the system by the relevant individual's name or other personally assigned identifier.) Each Federal agency, including the FTC, must publish a SORN that describes the records maintained in each of its Privacy Act systems, including the categories of individuals that the records in the system are about where and how the agency maintains these records, and how individuals can find out whether an agency system contains any records about them or request access to their records, if any. The FTC, for example, maintains 39 systems of records under the Act. Some of these systems contain records about the FTC's own employees, such as personnel and payroll files. Other FTC systems contain records about members of the public, such as public comments, consumer complaints, or phone numbers submitted to the FTC's Do Not Call Registry.

The FTC's SORNs discussed in this notice apply only to the FTC's own Privacy Act record systems. They do not cover Privacy Act records that other Federal agencies may collect and maintain in their own systems. Likewise, the FTC's SORNs and the Privacy Act of 1974 do not cover personal records that private businesses or other non-FTC entities may collect, which may be covered by other privacy laws.

Based on a periodic review of its SORNs, the FTC is publishing these additional technical revisions, to ensure that the FTC's SORNs and Appendices remain clear, accurate, and up-to-date:

- First, the FTC is amending several SORNs to clarify or update information about the applicable records disposition schedules published or approved by the National Archives and Records Administration (NARA). These schedules determine how long agency records in each system should be retained and destroyed.

- Second, the FTC is amending multiple SORNs to make other technical changes (e.g., updating the official title of the system manager, the authority for maintenance of the system, and the policies and practices for storage and record retention of records).

- Third, the FTC is republishing the full text of each of the above SORNs, incorporating the technical amendments, for the convenience of the reader and in accordance with OMB Circular A-108 (2016), which reorganized the format and content for SORNs published by Federal agencies.

The FTC is not substantively adding or amending any routine uses of its Privacy Act system records. Accordingly, the FTC is not required to provide prior public comment or notice to OMB or Congress for these technical amendments, which are final upon publication. See 5 U.S.C. 552a(e)(11) and 552a(r); OMB Circular A-108, *supra*.

A SORN-by-SORN summary, including a more detailed description of each SORN and how it is being amended, appears below, followed by the full text of the SORNs, as amended.

I. Law Enforcement Systems of Records

FTC-I-3 (Informal Advisory Opinion Requests and Response Files—FTC). This SORN covers the records of individuals who have requested informal advisory opinions from the FTC staff, and records of the responses to such requests. The Commission has updated the sections relating to the System Manager, Policies and Practices for Storage of Records, and Policies and Practices for Retrieval of Records.

FTC-I-5 (Matter Management System—FTC). This SORN covers the administrative database used by the FTC to track and report the history and status of FTC investigations and other agency matters, including names of employees or others assigned to or involved in such matters. The Commission has updated the sections relating to the System Manager and Policies, Purpose of the System, Categories of Records, Policies and Practices for Retrieval of Records,

and Policies and Practices for Retention and Disposal of Records.

FTC-I-6 (Public Records—FTC). This SORN covers the FTC's system of public records, including comments submitted by consumers and others in rulemakings, workshops, or other FTC proceedings. The FTC makes these public records routinely available for public inspection and copying, including by posting copies of such records on the internet, as noted in section 4.9(b) of the FTC Rules of Practice, 16 CFR 4.9(b), and explained in the FTC's online privacy policy posted at www.ftc.gov. This SORN has been updated to add an additional System Manager, the website Manager, Office of Public Affairs, and to update Policies and Practices for Retrieval of Records, and Administrative, Technical, and Physical Safeguards.

FTC-I-7 (Office of Inspector General Files—FTC). This SORN covers records in the FTC's Office of Inspector General (OIG). The OIG maintains this system of records to carry out its responsibilities pursuant to the Inspector General Act, as amended. This system was last revised in 2009. Among other minor changes, this SORN has been updated under System Name, Purpose, Categories of Individuals Covered by the System, Categories of Records in the System, Record Source Categories, Policies and Practices for Storage of Records, Retention and Disposal of Records, and Administrative, Technical, and Physical Safeguards.

II. Federal Trade Commission Personnel Systems of Records

FTC-II-11 (Personnel Security, Identity Management & Access Control Records—FTC). This SORN covers security-related records for determining the eligibility of FTC employees or other authorized individuals (e.g., on-site contractors) for access to FTC facilities and resources, as well as records related to granting and controlling such access. This SORN has been updated to add an additional System Manager, the Human Capital Management Office, and an additional Record Source Category to include the Defense Counterintelligence and Security Agency (DCSA).

IV. Correspondence Systems of Records

FTC-IV-1 (Consumer Information System—FTC). This SORN covers consumer complaints and information requests received from consumers, as well as identity theft complaints. Among other updates, the Commission has updated the sections relating to the System Manager, Policies and Practices for Storage of Records, and Policies and

Practices for Retention and Disposal of Records.

FTC-IV-3 (National Do Not Call Registry—FTC). This SORN covers records of individuals who wish to be placed on the FTC's telemarketing do-not-call list. It also covers information collected from telemarketers, sellers, or agents who are required to comply with the list, but only to the extent, if any, that such telemarketers, sellers, or agents are also "individuals" within the meaning of the Privacy Act. The FTC is revising the sections on System Location, Practices for Retention and Disposal of Records, Record Access Procedures, and Contesting Record Procedures.

VII. Miscellaneous Systems of Records

FTC-VII-1 (Automated Library Management System—FTC). This SORN covers requests from FTC employees and other individuals to search for holdings in the FTC Library's collection. The Commission has updated the Categories of Individuals Covered by the System.

FTC-VII-6 (Matter Record Search System (MaRS)—FTC). This SORN covers legacy and current electronic data collections of FTC memoranda and other agency records that may be managed by and retrieved by the author's name or other personal identifiers. The FTC has revised the System Name, System Manager, and Administrative, Technical, and Physical Safeguards.

FTC Systems of Records Notices

In light of the updated SORN template set forth in the revised OMB Circular A-108 (2016), the FTC is reprinting the entire text of each amended SORN when necessary for the public's benefit, to read as follows:

I. Law Enforcement Systems of Records

* * * * *

SYSTEM NAME AND NUMBER:

Informal Advisory Opinion Request and Response Files—FTC (FTC-I-3).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022).

SYSTEM MANAGER(S):

Office of the Secretary, Records Management Division, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, email: SORNs@ftc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

PURPOSE(S) OF THE SYSTEM:

To respond to requests for informal advisory opinions; to maintain records of such requests and the staff's responses; for use by staff in coordinating and preparing future advisory opinions and assuring the consistency of such opinions; to make records of such requests and staff responses available within the FTC for historical, legal research, investigational, and similar purposes (see FTC—VII—6, Document Management and Retrieval System—FTC); and also to make appropriate portions of such records available to the public (see FTC—I—6, Public Records—FTC).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for informal advisory opinions from FTC staff under § 1.1(b) of the Commission's Rules of Practice, 16 CFR 1.1(b). (Applicants for formal advisory opinions from the Commission under § 1.1(a) of the Rules of Practice, 16 CFR 1.1(a), are covered by FTC—I—1, Nonpublic Investigational and Other Nonpublic Legal Program Records—FTC.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of author and documents written by that individual; names or other data about other individuals by which documents in the system are searched and retrieved; finding aids or document indexes. Records in this system may duplicate records included in other FTC systems of records. See, e.g., FTC—I—1 (Nonpublic Investigational and Other Nonpublic Legal Program Records—FTC), FTC—I—6 (Public Records—FTC).

RECORD SOURCE CATEGORIES:

Individual proprietorship, corporation, or other business organization, counsel seeking or receiving a staff advisory opinion, and FTC employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be:

- (1) Referred to appropriate federal or state agencies for advice, for law enforcement, or where law enforcement action may be warranted; and

- (2) Disclosed on the FTC's public record under the FTC's Rules of Practice. See FTC—I—6, Public Records—FTC.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55541, 55542–55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The FTC maintains these records in electronic and non-electronic formats and media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are indexed by name of requesting party and subject matter of the opinion.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of under applicable schedules and procedures approved by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

For records other than those made public, access is restricted to agency personnel or contractors whose responsibilities require access. Paper records are maintained in lockable rooms or file cabinets. Access to electronic records is controlled by "user ID" and password combination and/or other appropriate electronic access or network controls (e.g., firewalls). FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> at 73 FR 33592, 33634 (June 12, 2008).

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> at 73 FR 33592, 33634 (June 12, 2008).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

73 FR 33591–33634 (June 12, 2008).

* * * * *

SYSTEM NAME AND NUMBER:

Matter Management System—FTC (FTC—I—5).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022).

SYSTEM MANAGER(S):

Office of the Secretary, Records Intake and Processing Division, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, email: SORNs@ftc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

PURPOSE(S) OF THE SYSTEM:

This system, currently known within the FTC as Matter Management System 2 (MMS2), is used to record and track the status or occurrence of planned or actual actions and events that may arise in investigations, rulemakings, or other Commission matters, and to generate status or history reports on these actions, events, and matters for use by Commission management and staff, in combination, as needed, with matter-related data from other systems. Specific purposes of this system (FTC—I—5) include: to maintain records of employee work and Commission law enforcement activities; to make workload and budget determinations and personnel-related evaluations; to assist in investigative and adjudicative proceedings, enforcement actions, civil penalty proceedings, consideration of

compliance reports, issuance of cease and desist orders, advisory opinions, and other Commission matters and proceedings; to refer information compiled in system records to experts and consultants when considered appropriate by Commission staff; and to use those records to properly manage Commission resources.

This system includes a subsystem of records to record and keep track of the status of matters pending for a vote or other review or action before the full Commission (*i.e.*, the five Federal Trade Commissioners). The specific purposes of those records include: to process and control assignments made to individual Commissioners; to coordinate the consideration of and votes on appropriate issues; to assist Commissioners and staff in investigative, adjudicative and rulemaking proceedings, enforcement actions, civil penalty proceedings, consideration of compliance reports, issuance of complaints, negotiation of consent orders, issuance of cease and desist orders, advisory opinions, and other matters before the Commission; and to retain records of the matters before the Commission, the Commission's deliberations and decisions concerning those matters, and related documents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present Commission employees, and other participants or parties in Commission investigations, rulemaking, advisory, and law enforcement matters or proceedings. (Businesses, sole proprietorships, or corporations are not covered by this system.)

CATEGORIES OF RECORDS IN THE SYSTEM:

For records about past or present Commission employees: employee name; employee identification number; organization name and code; employee assignments to individual matters. For others: records related to investigatory, rulemaking, advisory opinion and other matters or proceedings, including matter name and associated matter number; matter status; alleged or potential law violation; and goods or services associated with the proceeding. The records also includes names and mailing addresses of civil investigative demand and subpoena recipients and names of deponents, as well as brief descriptions or summaries of planned or actual actions or events during an FTC investigation, rulemaking, court case, or other FTC matter or proceeding. The system also includes records of assignments, votes, circulations, or

other activities or actions of the FTC's Commissioners on agency proceedings and matters.

RECORD SOURCE CATEGORIES:

Individual on whom the record is maintained and Commission staff associated with the matter.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system:

(1) May be made available or referred to federal, state, local or international government authorities for investigation, possible criminal prosecution, civil action, regulatory order or other law enforcement purpose; and

(2) May be disclosed on the FTC's public record under the FTC's Rules of Practice. See FTC-I-6, Public Records—FTC.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55541, 55542–55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

System records are primarily maintained and accessed electronically. The system can generate electronic or printed status or history reports.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Indexed by Commissioner, staff, or other individual name, employee identification number, respondent's or correspondent's name, company name, industry investigation title, and FTC matter number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with schedules and procedures issued or approved by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

For records other than those made public, access is restricted to agency personnel or contractors whose responsibilities require access. Access to nonpublic electronic records is controlled by "user ID" and password combination and/or other appropriate electronic access or network controls

(*e.g.*, firewalls). FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Copies of records contained in this system that have been placed on the FTC public record are available upon request or from the FTC's website, where applicable. See FTC-I-6, Public Records—FTC. However, pursuant to 5 U.S.C. 552a(k)(2), records in this system, which reflect records that are contained in other systems of records that are designated as exempt, are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a. See § 4.13(m) of the FTC Rules of Practice, 16 CFR 4.13(m).

HISTORY:

73 FR 33591–33634 (June 12, 2008).

SYSTEM NAME AND NUMBER:

Public Records—FTC (FTC-I-6).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022).

SYSTEM MANAGER(S):

Office of the Secretary, Clerk of Court Division, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, and

Website Manager, Office of Public Affairs, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

Email: SORNs@ftc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*; Executive Order 10450; Freedom of Information Act, 5 U.S.C. 552; 16 CFR 4.9.

PURPOSE(S) OF THE SYSTEM:

To make appropriate portions of the records in FTC matters available to the public; to enable members of the public to review and comment on or respond to such comments; to maintain records of Commission activities related to those matters.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in Commission investigations, rulemaking, advisory, and law enforcement proceedings; parties requesting formal advisory opinions; consumers who have received redress or who are entitled to redress pursuant to Commission or court orders; and commenters to Commission proceedings, including general requests for comments. (Businesses, sole proprietorships, or corporations are not covered by this system.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Public comments and other records that an individual may submit in an agency matter, where such record is subject to routine inspection and copying under the FTC's Rules of Practice, 16 CFR 4.9(b). These records can for example relate to general requests for information, investigations, rulemaking, advisory, and law enforcement proceedings. These records include records that either have become or are likely to become the subject of subsequent requests for substantially the same records under the Freedom of Information Act (FOIA). See 5 U.S.C. 552(a)(2)(D). This system (FTC I-6) is limited to files and records that are about an individual, and only when the file or record is pulled ("retrieved") by the name of that individual or other identifying particular assigned to that individual (e.g., number, symbol, fingerprint, etc.). Public comments received in connection with FTC rulemakings, workshops and consent agreements are also collected on behalf of the FTC and maintained by the

Government-wide Federal Docket Management System (FDMS) through a website (www.regulations.gov). The General Services Administration (GSA) manages and operates the FDMS on behalf of the Federal Government, and has published a system of records notice to cover the FDMS, including any records collected on behalf of the FTC through that system. See GSA/OGP-1 (e-Rulemaking Program Administrative System).

RECORD SOURCE CATEGORIES:

Individual respondent(s), company records, complainants, informants, witnesses, participants, commenters, and FTC employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be:

(1) Disclosed on the FTC's public record under the FTC's Rules of Practice, including by posting copies of such records on the FTC's website, www.ftc.gov, or made public by other electronic or non-electronic means. See 16 CFR 4.9(b); or

(2) Disclosed publicly through the FDMS or for any other routine use set forth in the system of records notice published for that system of records, GSA/OGP-1, or any successor system notice for that system.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55541, 55542–55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The FTC maintains these records in electronic and non-electronic formats. The FTC maintains electronic records in this system using a combination of different databases and applications, rather than maintaining them in a single electronic system.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Indexed by respondent's, participant's, commenter's, or FTC staff member's name; company name; industry investigation title; FTC matter name; and FTC matter number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of under applicable schedules and

procedures approved by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The FTC's websites are secured and monitored to protect against unauthorized deletion or alteration of records posted on such sites. Access to the official record copy of such records is restricted, where appropriate, to agency personnel or contractors whose responsibilities require access. See GSA/OGP-1 (e-Rulemaking Program Administrative System) for a description of the safeguards by the Federal Docket Management System for any public comments filed in connection with FTC matters or proceedings that are found at www.regulations.gov.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> at 73 FR 33592, 33634 (June 12, 2008).

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> at 73 FR 33592, 33634 (June 12, 2008).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

87 FR 964–974 (January 7, 2022)
73 FR 33591–33634 (June 12, 2008).

* * * * *

SYSTEM NAME AND NUMBER:

Office of Inspector General Files—FTC (FTC-I-7).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Office of Inspector General (OIG), Federal Trade Commission, 600

Pennsylvania Avenue NW, Washington, DC 20580. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC's website at <https://www.ftc.gov/policy-notices/privacy-policy/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022). Also see <https://www.ftc.gov/office-inspector-general/reports-correspondence>.

SYSTEM MANAGER(S):

Inspector General, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, email: SORNs@ftc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act, as amended, 5 U.S.C. 401 *et seq.*

PURPOSE(S) OF THE SYSTEM:

The OIG maintains this system of records to carry out its responsibilities pursuant to the Inspector General Act, as amended. The OIG is statutorily directed to receive complaints and conduct and supervise investigations, reviews and audits relating to programs and operations of the Federal Trade Commission, to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and to prevent and detect fraud, waste, and abuse in such programs and operations. Accordingly, the records in this system consist of complaints and related correspondence concerning possible violations of law, rules, regulations, mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health or safety related to the FTC; records created, received, or obtained during the course of investigating individuals and entities suspected of having committed illegal or unethical acts or misconduct and in any resulting related criminal prosecutions, civil proceedings, or administrative actions; and records created, received, or obtained during the course of conducting audits, inspections, or reviews and issuing reports, advisories or correspondence.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered consist of: (1) current and former FTC employees, applicants for employment, contractors and subcontractors associated with an activity that OIG is investigating, inspecting, reviewing, or auditing; (2) individuals who submit complaints to the OIG; (3) subjects of hotline complaints; and (4) individuals and entities performing some other role of significance to the OIG's investigative,

inspecting, reviewing, or auditing efforts, such as potential witnesses or subjects who are not FTC current or former employees, contractors or subcontractors. The system also tracks information related to OIG staff and staff of other agencies involved in conducting the investigative, inspecting, reviewing or auditing activity.

CATEGORIES OF RECORDS IN THE SYSTEM

Records related to complaints to the OIG, planning and conducting investigations, reviews, inspections and audits, the results of investigations, and any civil, criminal, or administrative actions resulting from investigations and other matters. More specifically, this includes, but is not limited to, correspondence relating to investigations and other matters; internal staff memoranda; copies of subpoenas issued during investigations and other matters, affidavits, statements from witnesses, transcripts of testimony taken in investigations or other matters and accompanying exhibits; documents, records or copies obtained during investigations and other matters; interview notes, documents and records relating to investigations and other matters; opening reports, information or data relating to alleged or suspected criminal, civil or administrative violations or similar wrongdoing by subject individuals and final reports of investigation and other matters.

RECORD SOURCE CATEGORIES:

Employees or other individuals on whom the record is maintained, non-target witnesses, FTC and non-FTC records, to the extent necessary to receive, review and respond to complaints and carry out OIG investigations, reviews, inspections, and audits, as authorized by 5 U.S.C. 401 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be:

1. Disclosed to agencies, offices, or establishments of the executive, legislative, or judicial branches of the federal or state government—

(a) Where such agency, office, or establishment has an interest in the individual for employment purposes, including a security clearance or determination as to access to classified information, and needs to evaluate the individual's qualifications, suitability, and loyalty to the United States Government, or

(b) Where such agency, office, or establishment conducts an investigation of the individual for the purposes of

granting a security clearance, or for making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas, or

(c) Where the records or information in those records are relevant and necessary to a decision with regard to the hiring or retention of an employee or disciplinary or other administrative action concerning an employee, or

(d) Where disclosure is requested in connection with the award of a contract or other determination relating to a government procurement, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the record is relevant and necessary to the requesting agency's decision on the matter, including, but not limited to, disclosure to any Federal agency responsible for considering suspension or debarment actions where such record would be germane to a determination of the propriety or necessity of such action, or disclosure to the United States General Accountability Office, the General Services Administration Board of Contract Appeals, or any other federal contract board of appeals in cases relating to an agency procurement.

2. Disclosed to the Office of Personnel Management, the Office of Government Ethics, the Merit Systems Protection Board, the Office of the Special Counsel, the Equal Employment Opportunity Commission, or the Federal Labor Relations Authority or its General Counsel, of records or portions thereof relevant and necessary to carrying out their authorized functions, such as, but not limited to, rendering advice requested by the OIG, investigations of alleged or prohibited personnel practices (including unfair labor or discriminatory practices), appeals before official agencies, offices, panels or boards, and authorized studies or review of civil service or merit systems or affirmative action programs.

3. Disclosed to independent auditors or other private firms with which the Office of the Inspector General has contracted to carry out an independent audit or investigation, or to analyze, collate, aggregate or otherwise refine data collected in the system of records, subject to the requirement that such contractors shall maintain Privacy Act safeguards with respect to such records.

4. Disclosed to a direct recipient of federal funds such as a contractor, where such record reflects serious inadequacies with a recipient's personnel and disclosure of the record is for purposes of permitting a recipient

to take corrective action beneficial to the Government;

5. Disclosed to any official charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures employed in investigative operations. This disclosure category includes members of the Council of the Inspectors General on Integrity and Efficiency and officials and administrative staff within their investigative chain of command, as well as authorized officials of the Department of Justice and the Federal Bureau of Investigation;

6. Disclosed to members of the Council of the Inspectors General on Integrity and Efficiency for the preparation of reports to the President and Congress on the activities of the Inspectors General;

7. Disclosed to complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or which they were a victim.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/policy-notices/privacy-policy/privacy-act-systems> and at 83 FR 55541, 55542–55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The FTC maintains system records in various electronic and non-electronic formats and media. The OIG Files consist of paper records maintained in file folders, cassette tapes and CD-ROMs containing audio recordings of investigative interviews, and data maintained on computer diskettes and hard drives. The folders, cassette tapes, CD-ROMs and diskettes are stored in file cabinets in the OIG. Electronic files are retained either in FTC servers or on the cloud.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

The records are retrieved by the name of the subject of the investigation or by a unique control number assigned to each investigation.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with Schedule DAA–0122–2020–0001, which was approved

by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access is restricted to agency personnel or contractors whose responsibilities require access. Access to electronic records is controlled by “user ID” and password combination, and/or role-based access controls, and/or other electronic access or network controls (e.g., firewalls). Paper records are maintained in lockable rooms or file cabinets, which are kept locked during non-duty hours. FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/policy-notices/privacy-policy/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/policy-notices/privacy-policy/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/policy-notices/privacy-policy/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(j)(2), records in this system are exempt from the provisions of 5 U.S.C. 552(a), except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10) and (11) and (i) and corresponding provisions of 16 CFR 4.13, to the extent that a record in the system of records was compiled for criminal law enforcement purposes.

Pursuant to 5 U.S.C. 552a(k)(2), the system is exempt from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) and the corresponding provisions of 16 CFR 4.13, to the extent the system of records consists of investigatory material compiled for law enforcement purposes, other than material within the scope of the

exemption at 5 U.S.C. 552a(j)(2). See 16 CFR 4.13(m).

HISTORY:

74 FR 17863–17866 (April 17, 2009).

73 FR 33591–33634 (June 12, 2008).

* * * * *

II. Federal Trade Commission Personnel Systems of Records

* * * * *

SYSTEM NAME AND NUMBER:

Personnel Security, Identity Management, and Access Control Records System–FTC (FTC–II–11).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. System data pertaining to identity management are maintained separately off-site by an FTC contractor. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022).

SYSTEM MANAGER(S):

Security Officer, Administrative Services Office, Office of the Executive Director, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580 (Personnel Security) and

Chief Human Capital Officer, Human Capital Management Office, Federal Trade Commission, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580 (Physical Security).

Email: SORNs@ftc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Homeland Security Presidential Directive–12 (HSPD–12).

PURPOSE(S) OF THE SYSTEM:

To conduct personnel security investigations; to make determinations required based upon the results of those investigations; and to maintain records of the investigations and determinations; to issue credentials that comply with Government-wide standards issued under HSPD–12, or to issue other non-HSPD–12 temporary identification for access to FTC facilities or resources; to maintain logs or other records of such logical and physical access by FTC staff, contractors, or other individuals; to detect, report and take appropriation action against improper

or unauthorized issuance or use of FTC credentials, and unauthorized access to or use of FTC facilities and resources.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former FTC employees, contractor staff, or other individuals who have requested, been issued, and/or used FTC identification for access to FTC and/or other Federally controlled facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, security investigation reports, adjudication files, card files, and position sensitivity designation files, and other data compiled, generated or used for personnel security clearance; fingerprints, photographs, signatures, and other personal data collected or used in connection with the issuance of FTC identification (credentials); time, date, location, or other data, logs, tapes, or records compiled or generated when such credentials are used to obtain physical or logical access to FTC facilities or resources.

These records are also covered by the applicable system notice published by the Defense Counterintelligence and Security Agency (DCSA) (DUSDI 02-DoD) (Personnel Vetting Records System), and any successor system notice that may be published by DCSA for this system. Any materials obtained from DCSA remain property of DCSA and are subject to DUSDI 02-DoD.

RECORD SOURCE CATEGORIES:

Individual requesting or requiring FTC identification for logical or physical access purposes, Defense Counterintelligence and Security Agency (DCSA) Security/Suitability Investigations Index files, FBI Headquarters investigative files, fingerprint index of arrest records, Defense Central Index of Investigations, previous employers, references identified by record subject individual, school registrars, and responsive law enforcement agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Records in this system may be used to disclose to an agency in the executive, legislative, or judicial branch, in response to its request, information on the issuance of a security clearance or the conducting of a security or suitability investigation on individuals who, at the time the records are added to the system, were Commission employees.

(2) Access logs, tapes, or other system records may be reviewed or referred and disclosed to police or other law

enforcement personnel for purposes of investigating possible criminal or other illegal activity of individuals who have accessed FTC facilities or resources.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55542–55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Paper and electronic records, tapes, or other digital or non-digital media. Identity management system data are maintained in an off-site database maintained and operated by a contractor on behalf of the FTC.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Paper records indexed by individual's name. Electronic records searched and retrieved by name or other data fields or codes.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Personnel investigation reports are retained for 15 years or until an employee separates from the agency. Records of adjudicative actions are maintained for two years. Other records in this system are retained and destroyed in accordance with applicable retention and disposal schedules and guidance issued or approved by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access to personnel security files is restricted to FTC Personnel Security staff, and such files are maintained in a FedRAMP certified electronic case management system. Any hard copy materials are maintained in a combination-locked safe and lockable metal file cabinets in locked rooms. Personnel investigation reports may be reviewed by an agency official (who has been subject to a favorable background investigation) only on a strict need-to-know basis. Identity management system (IDMS) data are collected, maintained and accessed only by authorized individuals. IDMS data are not maintained with other data on agency network servers, but are transferred by dedicated telephone data lines for off-site vendor storage, management and security. Security systems and equipment that electronically log or record usage of

FTC-issued credentials to obtain access to FTC facilities or resources are secured electronically and physically (e.g., recording and video monitoring equipment and servers in rooms accessible only by authorized key cards). FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(5), records in this system, to the extent such records have been compiled to determine suitability, eligibility, or qualifications for employment or other matters, as set forth in the cited Privacy Act provision, and would reveal the identity of a confidential source, are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a. See § 4.13(m) of the FTC Rules of Practice, 16 CFR 4.13(m).

HISTORY:

73 FR 33591–33634 (June 12, 2008).

* * * * *

IV. Correspondence Systems of Records

SYSTEM NAME AND NUMBER:

Consumer Information System—FTC (FTC–IV–1).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. This system is operated off-site by a contractor. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022).

SYSTEM MANAGER(S):

Assistant Director, Division of Consumer Response and Operations, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, email: SORNs@ftc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*; section 5 of the Identity Theft and Assumption Deterrence Act of 1998 (ITADA), 18 U.S.C. 1028 note.

PURPOSE(S) OF THE SYSTEM:

To maintain records of complaints and inquiries from individual consumers; to track and respond to such communications (e.g., providing information to consumers over the phone or fulfilling requests by consumers to be mailed copies of FTC publications); identify consumer problems and issues that may lead to law enforcement investigations, litigation, or other proceedings; to be used in and made part of the records of such proceedings, or to be referred to other person, entities, or authorities, where appropriate, covered by other Privacy Act system of records notices; and to provide statistical data on the number and types of complaints or other communications received by the FTC. Also, to satisfy the requirement of the ITADA that the FTC compile and refer identity theft complaints to "appropriate entities," and to provide useful information that may contribute to regulation and oversight of institutions and systems that play a role in or are affected by fraudulent business practices or identity theft.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Individual consumers who submit complaints to the FTC about identity theft, or the business practices of a company or individual, as well as consumers who request information or assistance.

(2) Individuals who submit their complaints about identity theft or the business practices of a company or

individual to another organization that has agreed to provide its consumer complaint information to the FTC.

(3) Individuals acting on behalf of another consumer to submit the other consumer's complaint about identity theft, or the business practices of a company or individual, or to request information or assistance on behalf of another individual.

(4) Individuals who are the subjects of complaints about identity theft or about the business practices of a company or individual.

(5) FTC or contractor staff assigned to process or respond to such communications.

(6) Other system users outside the FTC (e.g., law enforcement agencies authorized to have access to the system under confidentiality agreements).

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Personally identifying information about the individual who submits a complaint or requests information or assistance, including, for example, the individual's name, address, telephone number, fax number, date of birth, Social Security or credit card numbers, email address and other personal information extracted or summarized from the individual's complaint.

(2) Personally identifying information about the individual who submits a complaint or requests information or assistance on behalf of someone else, including, for example, the submitting individual's name, address, phone or fax number and email address.

(3) The name, address, telephone number or other information about an individual who is the subject of a complaint, or is allegedly associated with the subject of a complaint. (Information in the system about companies or other non-individuals is not covered by the Privacy Act.)

(4) The name and reference number of FTC or contractor staff person who entered or updated the complaint information in the database.

(5) Name, organization, and contact data for system users outside the FTC (e.g., staff of other authorized law enforcement agencies).

RECORD SOURCE CATEGORIES:

Consumers and entities who communicate with the FTC; FTC staff and contractors; other law enforcement agencies and non-FTC organizations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Consumer complaints can be disclosed to the subject of the complaint for purposes of attempting to resolve the complaint;

(2) Identity theft complaints also can be disclosed to the three major national credit reporting agencies and other appropriate entities to fulfill the requirements of section 5 of the ITADA; and

(3) Contact data for non-FTC users of this system (e.g., staff of authorized law enforcement agencies) can be shared among such users or with others within or outside the FTC to enable them to communicate with one another.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55542–55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The FTC uses several applications or components to collect and share consumer data. The FTC maintains a Consumer Response Center (CRC), which gathers, processes, and updates consumer information submitted by consumers via telephone-based services and internet-based complaint forms. Consumers access a multi-channel bilingual (English and Spanish) contact center to file complaints, report instances of identity theft, receive and print an identity theft report, and request or receive consumer education materials. Consumers may also file complaints directly from their computers and mobile devices using the online ReportFraud portal, which asks consumers to answer a series of questions organized into a few simple steps. The portal can be accessed from the URLs Reportfraud.ftc.gov and www.ftc.gov/complaint. Consumers with cross-border e-commerce complaints may file an online complaint at www.econsumer.gov, which offers cross-border consumer protection information and an additional separate online cross-border complaint form. Finally, consumers may contact the CRC through postal mail. The FTC also receives data collected by other entities. External contributors include a broad array of public and private domestic and foreign organizations.. Data from such communications are entered into a structured electronic database maintained by a contractor on the agency's behalf, and accessible by Web-based interface to FTC staff, contractors, and other authorized users (e.g., federal, state, local, and international law enforcement) subject to strict access and

security controls (see “Safeguards” below).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved and indexed by any category of data that is submitted by consumers or otherwise compiled in association with such records (*e.g.*, name, subject of the complaint).

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with Schedule DAA–0122–2021–0002, which was approved by the National Archives and Records Administration. Consumer complaint entries are generally destroyed when they are 5 years old except when they are subject to litigation holds to preserve complaints.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The system can currently be accessed by FTC staff, contractors, and other system users, such as authorized law enforcement agency personnel. This access occurs via a Web-based interface and is authorized only on a need-to-know basis to those individuals and organizations requiring access. Contractors and other non-FTC users must sign confidentiality and nondisclosure agreements, and, in some cases, are required to undergo additional security clearance procedures. Letters or other system records in paper format are maintained in lockable rooms and cabinets. Access to the electronic database requires users to have the correct “user ID” and password combination, individual security token code, and internet protocol (“IP”) address for the user’s law enforcement agency. The system database is maintained on secure servers, protected by firewalls, access and usage logs, and other security controls. Servers are maintained in a secure physical environment, including building locks, security guards, and cameras.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC’s Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008). Individuals who call the FTC’s Consumer Response Center can also use their FTC reference number to identify complaints they have previously submitted in order to update them.

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC’s Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008). Individuals who call the FTC’s Consumer Response Center can also use their FTC reference number to identify complaints they have previously submitted in order to update them.

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC’s Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008). Individuals who call the FTC’s Consumer Response Center can also use their FTC reference number to identify complaints they have previously submitted in order to update them.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552a(k)(2), records in this system relating to identity theft are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), (I), and (f) of 5 U.S.C. 552a, and the corresponding provisions of 16 CFR 4.13. See FTC Rules of Practice 4.13(m), 16 CFR 4.13(m).

HISTORY:

73 FR 33591–33634 (June 12, 2008).

* * * * *

SYSTEM NAME AND NUMBER:

National Do Not Call Registry System–FTC (FTC–IV–3).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. System database is maintained and operated off-site by a contractor. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022).

SYSTEM MANAGER(S):

National Do Not Call Registry Program Manager, Division of Consumer Response and Operations, Bureau of

Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, email: SORNs@ftc.gov.

See Treasury/FMS.017 for the system manager and address of the www.pay.gov system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101–6108; Do-Not-Call Implementation Act, Public Law No. 108–10 (2003); Do-Not-Call Improvement Act of 2007, Public Law 110–187 (2008); Do-Not-Call Registry Fee Extension Act of 2007, Public Law 110–188 (2008).

PURPOSE(S) OF THE SYSTEM:

To maintain records of the telephone numbers of individuals who do not wish to receive telemarketing calls; to disclose such records to telemarketers, sellers, and their agents in order for them to reconcile their do-not-call lists with the Registry and comply with the do-not-call provisions of the Commission’s Telemarketing Sales Rule, 16 CFR part 310; to enable the Commission and other law enforcement officials to determine whether a company is complying with the Rule; to provide statistical data that may lead to or be incorporated into law enforcement investigations and litigation; or for other law enforcement, regulatory or informational purposes. Information submitted by or compiled on telemarketers, sellers, and their agents is used for purposes of fee collection, authorizing their access to the system, and related purposes and uses as described in this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who notify the Commission that they do not wish to receive telemarketing calls. Individually identifiable information (*e.g.*, name, email address) that telemarketers, sellers, or their agents must submit when paying for and obtaining access to the system is covered by this system only to the extent, if any, that such information is “about [the] individual” within the meaning of the Privacy Act, and is not about the telemarketer, seller, or agent acting in a non-individual business capacity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Telephone numbers of individuals who do not wish to receive telemarketing calls; information automatically generated by the system, including date and/or time that the telephone number was placed on or

removed from the Registry; and other information that the individual may be asked to provide voluntarily (such as email address, if the individual registers through the National Do Not Call Registry website). Telemarketers, sellers, and their agents are also required to submit information to pay for and obtain authorized access to the system, including the names of, or other identifiers that may be associated with, individuals (e.g., name of contact person, name of the person to whom the credit card is issued, email address, etc.). Such information is part of this FTC system of records only to the extent, if any, that such information is maintained in the FTC's records and is "about [the] individual" within the meaning of the Privacy Act, and not about a telemarketer, seller, or agent acting in a non-individual business capacity.

Otherwise, user fee payment data from telemarketers, sellers, and their agents required to participate in the National Do Not Call Registry are principally collected and maintained on behalf of the Government by the *www.pay.gov* website operated by the Department of Treasury Financial Management Service (FMS). Those data are covered by the applicable system notice published by Treasury/FMS, Treasury/FMS.017 (Collections Records), and any successor system notice that may be published for that system.

RECORD SOURCE CATEGORIES:

Individuals who inform the Commission through the procedures established by the Commission that they do not wish to receive telemarketing calls. Some records may come from do-not-call lists that some states or organizations separately maintain. Record sources for this system may also include telemarketers, sellers, and agents, but only to the extent, if any, that they are "individuals" within the meaning of the Privacy Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Telephone numbers, but not any email addresses, submitted by individuals may be made available or referred on an automatic or other basis to telemarketers, sellers, and their agents for the purpose of determining or verifying that an individual does not wish to receive telemarketing calls;

(2) Information submitted by or compiled on telemarketers, sellers, and their agents may be used and disclosed to other Federal, state, or local government authorities for payment or

billing purposes, including referral to debt collection agencies or other governmental entities for collection, tax reporting, or other related purposes. Information that is submitted by or compiled on telemarketers, sellers, and their agents and that is incorporated into the *www.pay.gov* system shall also be subject to routine uses, if any, that may be separately published for that system, Treasury/FMS.017 (Collections Records), or any successor system notice for that system.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55542–55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in the system are collected and maintained by an off-site FTC contractor in an electronic database with Web-based access subject to strict security controls (see "Safeguards" below).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Indexed by area code and phone number of individuals who have informed the Commission that they do not wish to receive telemarketing calls. May also be retrieved by other data, if any, compiled or otherwise maintained with the record. For information submitted by or compiled on telemarketers, sellers, or their agents, records may be indexed and retrieved by any category of data that is submitted by or compiled on such telemarketers, sellers, or agents.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with Schedule DAA–0122–2021–0002, which was approved by the National Archives and Records Administration. Consumer complaint entries are generally destroyed when they are 5 years old except when they are subject to litigation holds to preserve complaints. The consumer registration function allows consumers to register their telephone numbers in the DNC system and to verify whether their phone numbers are on the registry. These registration entries are deleted 20 years after request of the individual to whom the telephone number is assigned, or the phone number is disconnected and reassigned. Telemarketer registrations are deleted

20 years after the telemarketer account no longer has any active subscriptions. The retention and destruction of payment data collected from telemarketers, sellers, and their agents by Treasury's FMS is described in the system notice for the *www.pay.gov* system, Treasury/FMS.017.

The Spam Database, which was retired in 2019, provided the public with an email address to which they could forward email and text messages that they believed to be spam. This database will be deleted on October 1, 2032.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access is generally restricted to those agency personnel, contractors and other law enforcement users subject to confidentiality agreements whose responsibilities require access, or to approved telemarketers, sellers, and their agents. Electronic access is subject to login ID, password, and other electronic access and security controls (e.g., firewalls). Contractors are required to sign confidentiality and nondisclosure agreements.

RECORD ACCESS PROCEDURES:

To request access to any information maintained with your registration that is not available to you through the automated dial-in system or the designated website described in the notification procedures above, you must submit your request in writing. See Appendix II (How To Make A Privacy Act Request) for details. The same access procedure applies to the extent, if any, that the Privacy Act applies to information submitted by or compiled on telemarketers, sellers, or their agents, where that information is not made available for review or amendments when the telemarketer, seller, or agent accesses the system.

CONTESTING RECORD PROCEDURES:

Where an individual believes the system has erroneously recorded or omitted information that is collected and maintained by the system, the individual will be afforded the opportunity to register, change, or delete that information after the automated system identifies and verifies the telephone number from which the individual is calling, if the individual is using the designated website, or the individual provides other identifying information, if requested by the automated system. To contest the accuracy of any other information that is not accessible to the individual through the automated dial-in system or website as described in the

“Notification procedures” section above, the request must be submitted to the FTC in writing. See Appendix II (How To Make A Privacy Act Request) for details. The same written request requirement applies to telemarketers, sellers, or their agents (to the extent, if any, that they are “individuals” within the meaning of the Privacy Act) when seeking to contest the accuracy of system information maintained on them, except for system information, if any, that can be contested or corrected through the automated system.

NOTIFICATION PROCEDURES:

To obtain notification of whether the system contains a record pertaining to that individual (*i.e.*, the individual’s telephone number), individuals use a dial-in system or a designated website that will enable the identification and verification of their telephone numbers. Individuals filing written requests pursuant to 16 CFR 4.13 will be acknowledged and directed to use those automated systems. To the extent, if any, that the Privacy Act applies to information submitted by or compiled on telemarketers, sellers, or their agents, the system provides notice (*i.e.*, confirms) that the system is maintaining such information when an individual accesses the system using the account number that was previously assigned to the telemarketer, seller, or agent at the time that entity originally entered information into the system to establish the relevant account.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

74 FR 17863–17866 (April 17, 2009).
73 FR 33591–33634 (June 12, 2008).

* * * * *

VII. Miscellaneous Systems of Records

* * * * *

SYSTEM NAME AND NUMBER:

Automated Library Management System–FTC (FTC–VII–1).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022).

SYSTEM MANAGER(S):

Head Librarian, Library, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, email: SORNs@ftc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

PURPOSE(S) OF THE SYSTEM:

To manage the FTC Library’s acquisition and collection of books, periodicals and other publications; to fulfill requests for the routing of serials among FTC employees; to electronically index or search for holdings in the FTC Library’s collection.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FTC personnel who request that copies of FTC Library periodicals or other publications in the Library’s collection be routinely circulated (routed) to them within the FTC; authors of books, periodicals, or other publications indexed in the Library’s collection; and other individuals that request FTC Library materials through inter-library loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and office location of the FTC individual making a routing request, employee identification number, and the name and number of the periodical; names of authors or other individuals indexed or associated with books or other publications maintained in the FTC Library’s collection or requested through inter-library loans.

RECORD SOURCE CATEGORIES:

Individual about whom the record is maintained; author or other publication data associated with the book, periodical or other publication; system users.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55542–55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic database using a commercially available software application.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Indexed by periodical number, employee identification number, author, or other information in the system.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with applicable schedules and procedures issued or approved by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access restricted to staff or contractor personnel whose responsibilities require access. Access to electronic records is controlled by “user ID” and password combination and/or other appropriate electronic access or network controls (*e.g.*, firewalls). (This limitation does not apply to searchable online catalog made available in the FTC Library.) FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC’s Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC’s Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC’s Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How To Make A Privacy Act Request), available on the FTC’s website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

73 FR 33591–33634 (June 12, 2008).

* * * * *

SYSTEM NAME AND NUMBER:

Matter Record Search System (MaRS)–FTC (FTC–VII–6).

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. For other locations where records may be maintained or accessed, see Appendix III (Locations of FTC Buildings and Regional Offices), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 87 FR 57698 (Sept. 21, 2022).

SYSTEM MANAGER(S):

Office of the Secretary, Records Management Division, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, email: SORNs@ftc.gov.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

PURPOSE(S) OF THE SYSTEM:

To provide staff with the ability to search for and access copies of agency documents needed for legal and economic research activities of the Commission (*e.g.*, internal memoranda, economic reports, other agency work product); to provide FTC staff processing Freedom of Information Act or other disclosure requests with the ability to search for and access copies of potentially responsive documents outlining the actions and considerations of the Commission, individual Commissioners, and the staff; to provide the ability, once the automated system is fully implemented, to electronically manage the writing, editing, storage, retrieval and disposal of such documents (*e.g.*, memoranda, correspondence), and to provide for additional document management functions, if any.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have written documents contained in Commission files, and other individuals whose names or other personally identifying data are used to search and retrieve documents from the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of author and documents written by that individual; names or other data about other individuals by which documents in the system are searched and retrieved; finding aids or document indexes. Records in this system may duplicate records included in other FTC systems of records. See, *e.g.*, FTC-I-1 (Nonpublic Investigational and Other Nonpublic Legal Program

Records-FTC), FTC-I-6 (Public Records-FTC).

RECORD SOURCE CATEGORIES:

FTC employees and others who submit documents to the Commission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records in this system may be disclosed to contractors in connection with document processing, storage, disposal and similar records management and retrieval activities.

For other ways that the Privacy Act permits the FTC to use or disclose system records outside the agency, see Appendix I (Authorized Disclosures and Routine Uses Applicable to All FTC Privacy Act Systems of Records), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 83 FR 55541, 55542-55543 (Nov. 6, 2018).

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Older records are stored on electronic and non-electronic formats. The system also comprises one or more structured databases using commercial software applications to search, retrieve, and manage records stored electronically.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Indexed by author of the document, or other data fields or codes.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and destroyed in accordance with schedules and procedures issued or approved by the National Archives and Records Administration.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access is restricted to agency personnel and contractors whose responsibilities require access. Paper or other non-digital records are stored in secure offsite storage or lockable file cabinets or offices. Access to electronic records is controlled by "user ID" and password combination, and/or role-based access controls, and/or other appropriate electronic access or network controls (*e.g.*, firewalls). FTC buildings are guarded and monitored by security personnel, cameras, ID checks, and other physical security measures.

RECORD ACCESS PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available

on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> and at 73 FR 33592, 33634 (June 12, 2008).

CONTESTING RECORD PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> at 73 FR 33592, 33634 (June 12, 2008).

NOTIFICATION PROCEDURES:

See § 4.13 of the FTC's Rules of Practice, 16 CFR 4.13. For additional guidance, see also Appendix II (How to Make A Privacy Act Request), available on the FTC's website at <https://www.ftc.gov/about-ftc/foia/foia-reading-rooms/privacy-act-systems> at 73 FR 33592, 33634 (June 12, 2008).

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Records contained in this system that have been placed on the FTC public record are available upon request or, where applicable, made available online. See FTC-I-6 (Public Records-FTC). However, pursuant to 5 U.S.C. 552a(k)(2), records in this system, which reflect records that are contained in other systems of records that are designated as exempt, are exempt from the requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a. See § 4.13(m) of the FTC Rules of Practice, 16 CFR 4.13(m).

HISTORY:

87 FR 964-974 (January 7, 2022)
73 FR 33591-33634 (June 12, 2008).

* * * * *

Joel Christie,

Acting Secretary.

[FR Doc. 2024-22391 Filed 9-27-24; 8:45 am]

BILLING CODE 6750-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention**

[Docket No. CDC-2024-0072]

Meeting of the Advisory Committee on Immunization Practices

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and

Prevention (CDC) announces the following meeting of the Advisory Committee on Immunization Practices (ACIP). This meeting is open to the public. Time will be available for public comment.

DATES: The meeting will be held on October 23, 2024, from 8 a.m. to 5:30 p.m., EDT and October 24, 2024, from 8 a.m. to 5:30 p.m., EDT, (times subject to change); see the ACIP website for updates: <https://www.cdc.gov/vaccines/acip/index.html>.

Written comments must be received between October 4–18, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0072, by either of the methods listed below. CDC does not accept comments by email.

- **Federal eRulemaking Portal:**

<https://www.regulations.gov>. Follow the instructions for submitting comments.

- **Mail:** Ms. Stephanie Thomas, ACIP Meeting, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H24–8, Atlanta, Georgia 30329–4027. Attn: Docket No. CDC–2024–0072.

Instructions: All submissions received must include the Agency name and docket number. All relevant comments received in conformance with the <https://www.regulations.gov> suitability policy will be posted without change to <https://www.regulations.gov>, including any personal information provided. For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>.

The meeting will be webcast live via the World Wide Web. The webcast link can be found on the ACIP website at <https://www.cdc.gov/vaccines/acip/index.html>.

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, Committee Management Specialist, Advisory Committee on Immunization Practices, National Center for Immunization and Respiratory Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road NE, Mailstop H24–8, Atlanta, Georgia 30329–4027. Telephone: (404) 639–8836; Email: ACIP@cdc.gov.

SUPPLEMENTARY INFORMATION:

Purpose: The Advisory Committee on Immunization Practices (ACIP) is charged with advising the Director, Centers for Disease Control and Prevention (CDC), on the use of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the

Vaccines for Children program, along with schedules regarding dosing interval, dosage, and contraindications to administration of vaccines. Further, under applicable provisions of the Affordable Care Act and Section 2713 of the Public Health Service Act, immunization recommendations of ACIP that have been approved by the Director, CDC, and appear on CDC immunization schedules generally must be covered by applicable health plans.

Matters to be Considered: The agenda will include discussions on chikungunya vaccines, COVID–19 vaccines, cytomegalovirus (CMV) vaccine, Human papillomavirus (HPV) vaccines, influenza vaccines, meningococcal vaccines, mpox vaccines, pneumococcal vaccines, Respiratory Syncytial Virus (RSV) vaccines for adults, RSV vaccines for maternal and pediatric populations, and the adult and child/adolescent immunization schedules.

Recommendation votes are scheduled for COVID–19 vaccines, meningococcal vaccines, pneumococcal vaccines, RSV vaccines for adults, and the adult and child/adolescent immunization schedules. A Vaccines for Children (VFC) vote is scheduled for influenza vaccines and meningococcal vaccines. Agenda items are subject to change as priorities dictate. For more information on the meeting agenda, visit <https://www.cdc.gov/vaccines/acip/meetings/index.html>.

Meeting Information: The meeting will be webcast live via the World Wide Web. For more information on ACIP, please visit the ACIP website: <https://www.cdc.gov/vaccines/acip/index.html>.

Public Participation

Interested persons or organizations are invited to participate by submitting written views, recommendations, and data. Please note that comments received, including attachments and other supporting materials, are part of the public record and are subject to public disclosure. Comments will be posted on <https://www.regulations.gov>. Therefore, do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure. If you include your name, contact information, or other information that identifies you in the body of your comments, that information will be on public display. CDC will review all submissions and may choose to redact, or withhold, submissions containing private or proprietary information such as Social Security numbers, medical information, inappropriate language, or duplicate/

near-duplicate examples of a mass-mail campaign. CDC will carefully consider all comments submitted into the docket.

Written Public Comment: The docket will be opened to receive written comments on October 4–18, 2024. Written comments must be received by October 18, 2024.

Oral Public Comment: This meeting will include time for members of the public to make an oral comment. Oral public comment will occur before any scheduled votes, including all votes relevant to the ACIP's Affordable Care Act and Vaccines for Children Program roles. Priority will be given to individuals who submit a request to make an oral public comment before the meeting according to the procedures below.

Procedure for Oral Public Comment: All persons interested in making an oral public comment at the October 23–24, 2024, ACIP meeting must submit a request at <https://www.cdc.gov/vaccines/acip/meetings/index.html> between October 4–18, 2024, and no later than 11:59 p.m., EDT, October 18, 2024, according to the instructions provided.

If the number of persons requesting to speak is greater than can be reasonably accommodated during the scheduled time, CDC will conduct a lottery to determine the speakers for the scheduled public comment session. CDC staff will notify individuals regarding their request to speak by email by October 21, 2024. To accommodate the significant interest in participation in the oral public comment session of ACIP meetings, each speaker will be limited to three minutes, and each speaker may speak only once per meeting.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024–22357 Filed 9–27–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Centers for Disease Control and Prevention****Disease, Disability, and Injury Prevention and Control Special Emphasis Panel; Notice of Charter Renewal**

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter renewal.

SUMMARY: The Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), announces the renewal of the charter of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP).

FOR FURTHER INFORMATION CONTACT: Gladys G. Lewellen, M.B.A., M.P.A., Designated Federal Officer, Centers for Disease Control and Prevention, Department of Health and Human Services, 1600 Clifton Road NE, Mailstop TW-2, Atlanta, Georgia 30329-4027. Telephone: (770) 488-4786; Email: GLewellen@cdc.gov.

SUPPLEMENTARY INFORMATION: CDC is providing notice under 5 U.S.C. 1001-1014 of the renewal of the charter of the Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, Centers for Disease Control and Prevention, Department of Health and Human Services. This charter has been renewed for a two-year period through September 18, 2026.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2024-22356 Filed 9-27-24; 8:45 am]

BILLING CODE 4163-18-P

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

[Document Identifiers: CMS-10598 and CMS-224-14]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by November 29, 2024.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION:**Contents**

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-10598 Evaluation of Stakeholder Training and Program Support

CMS-224-14 Federally Qualified Health Center Cost Report Form

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collections

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Evaluation of Stakeholder Training and Program Support; *Use:* The Centers for Medicare and Medicaid Services (CMS) provides training and technical assistance primarily through weekly, bi-weekly, monthly, or quarterly webinars, conferences, and Computer Based Trainings (CBTs). In addition, CMS provides one-time web-based training and support sessions as needed. Evaluation instruments are electronically sent to participants immediately after each session. Current

data collections include online and onsite training session evaluations.

CMS uses information from the data collection activities to determine the extent to which the goals of each training and support session were achieved and to help CMS make improvements for future training and support sessions. The collected data helps CMS address its Government Performance and Results Act (GPRA) requirements, as well as CMS and HHS goals for support for, and open dialogue with, stakeholders.

The Affordable Care Act (ACA) was enacted to assist millions of Americans in obtaining affordable health care services and to allow more employers to offer insurance coverage to their employees in a cost-effective manner. Since the implementation of ACA in 2014, individuals and small businesses have been able to purchase private health insurance through competitive marketplaces called the “Health Insurance Marketplace” (Marketplace). CMS issued regulations for the establishment and practices of Marketplaces in States. The cooperation and coordination of States, health insurance issuers, the Federal Government and other key stakeholders is essential to the continued success of the Marketplace.

The Consolidated Appropriations Act (CAA) of 2021 became law on December 27, 2020. It is a \$1.4 trillion omnibus spending agreement that encompasses many different provisions. Two (2) acts within the law apply to the Centers for Medicare and Medicaid Services (CMS) Center for Consumer Information and Insurance Oversight (CCIIO): Title I, “No Surprises Act” and Title II, “Transparency” (NST). Beginning in 2022, new protections through the No Surprises Act are in place to shield millions of consumers from surprise medical bills.

CMS is strongly committed to providing training, outreach, and technical assistance to stakeholders participating in the Marketplace and/or programs mandated by the ACA or NST. In addition, CMS recognizes that the success of Marketplaces and associated programs relies on the cooperation and coordination of States, issuers, Assistors, self-insured health plans, third-party administrators (TPA) of self-insured health plans, agents and brokers, Providers/Facilities, and other stakeholders. Therefore, CMS expects to design and conduct various consumer satisfaction and feedback surveys, usability tests, and focus groups for these respondents to complete. *Form Number:* CMS–10598 (OMB Control Number: 0938–1331); *Frequency:*

Annually; *Affected Public:* Individuals and Households, Private Sector, State, Local, and Tribal Governments, Federal Government, Business or other for-profit, and not-for-profit institutions; *Number of Respondents:* 9,588; *Number of Responses:* 9,588 *Total Annual Hours:* 2,397 hours. (For policy questions regarding this collection contact Sonia Henderson at 301–492–4320.)

2. *Type of Information Collection Request:* Extension without change of a previously approved collection; *Title of Information Collection:* Federally Qualified Health Center Cost Report Form; *Use:* The Form CMS–224–14 cost report is needed to determine a provider’s reasonable cost incurred in furnishing medical services to Medicare beneficiaries and to calculate the FQHC settlement amount. These providers, paid under the FQHC prospective payment system (PPS), may receive reimbursement outside of the PPS for Medicare reimbursable bad debts, pneumococcal, influenza, and COVID–19 vaccines, and monoclonal antibody products. CMS uses the Form CMS–224–14 for rate setting; payment refinement activities, including developing a FQHC market basket; Medicare Trust Fund projections; and to support program operations. Additionally, the Medicare Payment Advisory Commission (MedPAC) uses the FQHC Medicare cost report data to calculate Medicare margins; to formulate recommendations to Congress regarding the FQHC PPS; and to conduct additional analysis of the FQHC PPS. *Form Number:* CMS–224–14 (OMB control number: 0938–1298); *Frequency:* Yearly; *Affected Public:* Private Sector, State, Local, or Tribal Governments, Federal Government, Business or other for-profits, Not-for-Profit Institutions; *Number of Respondents:* 2,967; *Total Annual Responses:* 2,967; *Total Annual Hours:* 172,086. (For policy questions regarding this collection contact LuAnn Piccione at 410–786–5423.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–22355 Filed 9–27–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10516]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS’ intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency’s functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by October 30, 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.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, please access the CMS PRA website by copying and pasting the following web address into your web browser: <https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing>.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786-4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term “collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. Title of Information Collection:

Program Integrity II; *Type of Information Collection Request:*

Extension without change of a currently approved collection; *Use:* On March 23, 2010, the Patient Protection and Affordable Care Act (PPACA; Pub. L. 111-148) was signed into law and on March 30, 2010, the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152) was signed into law. The two laws implement various health insurance policies. On June 19, 2013, the Department of Health and Human Services (HHS) published proposed rule CMS-9957-P: Program Integrity: Exchanges, SHOP, Premium Stabilization Programs, and Market Standards (78 FR 37302) (Program Integrity Proposed Rule) which, among other things, contained third party disclosure requirements and data collections that supported the oversight of premium stabilization programs, State Exchanges, and qualified health plan (QHP) issuers in Federally-facilitated Exchanges (FFEs). Parts of the proposed rule were finalized as Patient Protection and Affordable Care Act; Program Integrity: Exchange, Premium Stabilization Programs, and Market Standards; Amendments to the HHS Notice of Benefit and Payment Parameters for 2014; Final Rule (Program Integrity Final Rule II), 78 FR 25326 (October 24, 2013). This information collection request relates to a portion of the information collection requirements set forth in the final rule. Form Number: CMS-10516 (OMB

control number: 0938-1277); Frequency: Annually; Affected Public: Private Sector, State, Local, or Tribal Governments; Business or other for-profits, and Not-for Profits; Number of Respondents: 457; Number of Responses: 457; Total Annual Hours: 42,771. (For questions regarding this collection, contact Andrea Honig at (301) 492-4147.)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024-22345 Filed 9-27-24; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2000-D-0598]

International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products; Studies To Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing (Revision 2); Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft revised guidance for industry (GFI) #116 (VICH GL23) entitled “Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing (Revision 2).” This draft guidance has been developed for veterinary use by the International Cooperation on Harmonisation of Technical Requirements for Registration of Veterinary Medicinal Products (VICH). This draft guidance recommends a Standard Battery of Tests that can be used for the evaluation of the genotoxicity of veterinary drug residues in food.

DATES: Submit either electronic or written comments on the draft guidance by November 29, 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-2000-D-0598 for “Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing (Revision 2).” 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 guidance to the Policy and Regulations Staff, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Li You, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0828, Li.You@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft GFI #116 (VICH GL23) entitled “Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing (Revision 2).” This draft revised guidance recommends a Standard Battery of Tests that can be used for the evaluation of the genotoxicity of veterinary drug residues. The Standard Battery of Tests intends to achieve reasonable

confidence in the assessment of the genotoxicity potential of veterinary drug residues and to be in harmony with the requirements of International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use for testing human drugs for genotoxicity. This draft guidance also advises on modifications to the Standard Battery of Tests and on interpretation of test results. The objective of this guidance is to ensure international harmonization of genotoxicity testing of veterinary drug residues.

FDA has participated in efforts to enhance harmonization and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify, and then reduce, differences in technical requirements for drug development among regulatory agencies in different countries. FDA has actively participated in the International Conference on Harmonization of Technical Requirements for Approval of Pharmaceuticals for Human Use to develop harmonized technical requirements for the approval of human pharmaceutical and biological products among the European Union, Japan, and the United States. The VICH is a parallel initiative for veterinary medicinal products. The goal of the VICH is to develop harmonized technical requirements for the approval of veterinary medicinal products in the European Union, Japan, and the United States, and receives input from both regulatory and industry representatives.

The VICH Steering Committee is composed of member representatives from the European Commission and European Medicines Agency; AnimalHealthEurope; FDA—Center for Veterinary Medicine and U.S. Department of Agriculture—Center for Veterinary Biologics; the U.S. Animal Health Institute; the Japanese Ministry of Agriculture, Forestry and Fisheries; and the Japanese Veterinary Products Association. There are 10 observers to the VICH Steering Committee: 1 representative from government and 1 representative from industry of Australia, New Zealand, Canada, South Africa, and the United Kingdom. The World Organisation for Animal Health is an associate member of the VICH. The VICH Secretariat, which coordinates the preparation of documentation, is provided by HealthforAnimals.

This level 1 draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current

thinking of FDA on “Studies to Evaluate the Safety of Residues of Veterinary Drugs in Human Food: Genotoxicity Testing (Revision 2).” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. 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 21 CFR part 514 have been approved under OMB control number 0910–0032. The collections of information in 21 CFR part 511 have been approved under OMB control number 0910–0117.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at <https://www.fda.gov/AnimalVeterinary/GuidanceComplianceEnforcement/GuidanceforIndustry/default.htm>, <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>, or <https://www.regulations.gov>.

Dated: September 24, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–22301 Filed 9–27–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–D–4168; FDA–2024–D–4169; FDA–2024–D–4170; and FDA–2024–D–4171]

Safety and Performance Based Pathway Device-Specific Guidances; 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 four final device-specific guidance documents for the Safety and Performance Based Pathway—specifically, “Air Powered Dental Handpieces and Air Motors—Performance Criteria for Safety and

Performance Based Pathway,” “Dental Ceramics—Performance Criteria for Safety and Performance Based Pathway,” “Dental Impression Materials—Performance Criteria for Safety and Performance Based Pathway,” and “Dental Cements—Performance Criteria for Safety and Performance Based Pathway.” The device-specific guidances identified in this notice were developed in accordance with the finalized *guidance* entitled “Safety and Performance Based Pathway.”

DATES: The announcement of the guidances is published in the **Federal Register** on September 30, 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-2024-D-4168 for “Air Powered Dental Handpieces and Air Motors—Performance Criteria for Safety and Performance Based Pathway,” Docket No. FDA-2024-D-4169 for “Dental Ceramics—Performance Criteria for Safety and Performance Based Pathway,” Docket No. FDA-2024-D-4170 for “Dental Impression Materials—Performance Criteria for Safety and Performance Based Pathway,” or Docket No. FDA-2024-D-4171 for “Dental Cements—Performance Criteria for Safety and Performance Based Pathway.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management

Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance documents are available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidances. Submit written requests for a single hard copy of the guidance document entitled “Air Powered Dental Handpieces and Air Motors—Performance Criteria for Safety and Performance Based Pathway,” “Dental Ceramics—Performance Criteria for Safety and Performance Based Pathway,” “Dental Impression Materials—Performance Criteria for Safety and Performance Based Pathway,” or “Dental Cements—Performance Criteria for Safety and Performance Based Pathway” 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: Jason Ryans, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1613, Silver Spring, MD 20993-0002, 301-796-4908.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of four final device-specific guidance documents for the Safety and Performance Based Pathway—specifically, “Air Powered Dental Handpieces and Air Motors—Performance Criteria for Safety and Performance Based Pathway,” “Dental Ceramics—Performance Criteria for Safety and Performance Based Pathway,” “Dental Impression Materials—Performance Criteria for Safety and Performance Based Pathway,” and “Dental Cements—Performance Criteria for Safety and Performance Based Pathway.” These device-specific guidance documents provide performance criteria for premarket notification (510(k)) submissions to support the optional Safety and Performance Based Pathway, as described in the guidance entitled “Safety and Performance Based Pathway.”¹ As described in that guidance, substantial equivalence is

¹ Available at <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/safety-and-performance-based-pathway>.

rooted in comparisons between new devices and predicate devices. However, the Federal Food, Drug, and Cosmetic Act (FD&C Act) does not preclude FDA from using performance criteria to facilitate this comparison. If a legally marketed device performs at certain levels relevant to its safety and effectiveness, and a new device meets those levels of performance for the same characteristics, FDA could find the new device as safe and effective as the legally marketed device. Instead of reviewing data from direct comparison testing between the two devices, FDA could support a finding of substantial equivalence with data demonstrating the new device meets the level of performance of an appropriate predicate device(s). Under this optional Safety and Performance Based Pathway, a submitter of air powered dental handpieces and air motors, or dental cement devices could satisfy the requirement to compare its device with a legally marketed device by, among other things, independently demonstrating that the device's performance meets performance criteria as established in the relevant above-listed guidance rather than using direct predicate comparison testing for some of the performance characteristics.

These guidances are being implemented without prior public comment because the Agency has determined that prior public participation is not feasible or appropriate (see section 701(h)(1)(C) of the FD&C Act (21 U.S.C. 371(h)(1)(C)) and 21 CFR 10.115(g)(2)). FDA has determined that these guidance documents present less burdensome policies that are consistent with public health. Although these guidances are

being implemented immediately, FDA will consider all comments received and revise the guidance documents as appropriate.

These guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These guidances represent the current thinking of FDA on "Air Powered Dental Handpieces and Air Motors—Performance Criteria for Safety and Performance Based Pathway," "Dental Ceramics—Performance Criteria for Safety and Performance Based Pathway," "Dental Impression Materials—Performance Criteria for Safety and Performance Based Pathway," and "Dental Cements—Performance Criteria for Safety and Performance Based Pathway." 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.

II. Electronic Access

Persons interested in obtaining a copy of the guidances 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>. These guidance documents are also available at <https://www.regulations.gov> or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>. Persons unable to download an electronic copy of "Air Powered

Dental Handpieces and Air Motors—Performance Criteria for Safety and Performance Based Pathway," "Dental Ceramics—Performance Criteria for Safety and Performance Based Pathway," "Dental Impression Materials—Performance Criteria for Safety and Performance Based Pathway," or "Dental Cements—Performance Criteria for Safety and Performance Based Pathway" may send an email request to CDRH-Guidance@fda.hhs.gov to receive an electronic copy of the document. Please use the document number GUI00021014 for "Air Powered Dental Handpieces and Air Motors—Performance Criteria for Safety and Performance Based Pathway," document number GUI00007014 for "Dental Ceramics—Performance Criteria for Safety and Performance Based Pathway," document number GUI00007013 for "Dental Impression Materials—Performance Criteria for Safety and Performance Based Pathway," or document number GUI00021005 for "Dental Cements—Performance Criteria for Safety and Performance Based Pathway" to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While these guidances contain no new 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 (PRA) (44 U.S.C. 3501–3521). The collections of information in the following table have been approved by OMB:

21 CFR part; guidance	Topic	OMB control No.
807, subpart E "Requests for Feedback and Meetings for Medical Device Submissions: The Q-Submission Program".	Premarket notification Q-submissions; pre-submissions.	0910–0120 0910–0756

Dated: September 24, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–22309 Filed 9–27–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0008]

Request for Nominations for Individuals and Consumer Organizations for Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is requesting that any consumer organizations interested in participating in the selection of voting and/or nonvoting consumer representatives to serve on its advisory committees or panels notify FDA in writing. FDA is also requesting nominations for voting and/or nonvoting consumer representatives to serve on advisory committees and/or panels for which vacancies currently exist or are expected to occur in the near future. Nominees

recommended to serve as a voting or nonvoting consumer representative may be self-nominated or may be nominated by a consumer organization. FDA seeks to include the views of individuals on its advisory committee regardless of their gender identification, religious affiliation, racial and ethnic identification, or disability status and, therefore, encourages nominations of appropriately qualified candidates from all groups.

DATES: Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests on an FDA advisory committee or panel may send a letter or email stating that interest to FDA (see **ADDRESSES**) by November 14, 2024, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to

FDA (see **ADDRESSES**) by November 14, 2024. Nominations will be accepted for current vacancies and for those that will or may occur through December 31, 2025.

ADDRESSES: All statements of interest from consumer organizations interested in participating in the selection process should be submitted electronically to ACOMSSubmissions@fda.hhs.gov or by mail to Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5122, Silver Spring, MD 20993-0002.

Consumer representative nominations should be submitted electronically by logging into the FDA Advisory Committee Membership Nomination Portal: <https://www.accessdata.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm>, or by mail to Advisory

Committee Oversight and Management Staff, 10903 New Hampshire Ave., Bldg. 32, Rm. 5122, Silver Spring, MD 20993-0002. Additional information about becoming a member of an FDA advisory committee can also be obtained by visiting FDA's website at <https://www.fda.gov/AdvisoryCommittees/default.htm>.

FOR FURTHER INFORMATION CONTACT: For questions relating to participation in the selection process: Kimberly Hamilton, Advisory Committee Oversight and Management Staff, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5122, Silver Spring, MD 20993-0002, 301-796-8220, Kimberly.Hamilton@fda.hhs.gov.

For questions relating to specific advisory committees or panels, contact the appropriate contact person listed in table 1.

TABLE 1—ADVISORY COMMITTEE CONTACTS

Contact person	Committee/panel
Rakesh Raghuwanshi, Office of the Chief Scientist, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 1, Rm. 3309, Silver Spring, MD 20993-0002, 301-796-4769, Rakesh.Raghuwanshi@fda.hhs.gov .	FDA Science Board Advisory Committee.
Christina Vert, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993-0002, 240-402-8054, Christina.Vert@fda.hhs.gov .	Blood Products Advisory Committee.
Marie DeGregorio, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 1246, Silver Spring, MD 20993-0002, 240-402-4207, Marie.Degregorio@fda.hhs.gov .	Cellular, Tissue and Gene Therapies Advisory Committee.
Sussan Paydar, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993-0002, 202-657-8533, Sussan.Paydar@fda.hhs.gov .	Vaccines and Related Biological Products Advisory Committee.
Joyce Frimpong, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2438, Silver Spring, MD 20993-0002, 301-796-7973, Joyce.Frimpong@fda.hhs.gov .	Anesthetic and Analgesic Drug Products Advisory Committee; Obstetrics, Reproductive and Urologic Drugs Advisory Committee; Psychopharmacologic Drugs Advisory Committee.
Yvette Waples, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2510, Silver Spring, MD 20993-0002, 301-796-9034, Yvette.Waples@fda.hhs.gov .	Antimicrobial Drugs Advisory Committee, Drug Safety and Risk Management Advisory Committee; Non-Prescription Drugs Advisory Committee; Oncologic Drugs Advisory Committee; Pharmaceutical Science and Clinical Pharmacology Drugs Advisory Committee.
LaToya Bonner, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2428, Silver Spring, MD 20993-0002, 301-796-2855, LaToya.Bonner@fda.hhs.gov .	Cardiovascular and Renal Drugs Advisory Committee; Dermatologic and Ophthalmic Drugs Advisory Committee; Endocrinologic and Metabolic Drugs Advisory Committee.
Takyiah Stevenson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2406, Silver Spring, MD 20993-0002, 240-402-2507, Takyiah.Stevenson@fda.hhs.gov .	Medical Imaging Advisory Committee.
Jessica Seo, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2412, Silver Spring, MD 20993-0002, 301-796-7699, Jessica.Seo@fda.hhs.gov .	Gastrointestinal Drugs Advisory Committee; Peripheral and Central Nervous System Drugs Advisory Committee.
Candace Nalls, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5211, Silver Spring, MD 20993-0002, 301-636-0510, Candace.Nalls@fda.hhs.gov .	Anesthesiology and Respiratory Therapy Devices Panel; Clinical Chemistry and Clinical Toxicology Devices Panel; Ear, Nose and Throat Devices Panel; Gastroenterology-Urology Devices Panel; General and Plastic Surgery Devices Panel.
James Swink, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5211, Silver Spring, MD 20993-0002, 301-796-6313, James.Swink@fda.hhs.gov .	Circulatory System Devices Panel; General Hospital and Personal Use Devices Panel; Hematology and Pathology Devices Panel; Immunology Devices Panel; Medical Devices Dispute Resolution Panel; Microbiology Devices Panel; Molecular and Clinical Genetics Panel; Radiological Devices Panel.

TABLE 1—ADVISORY COMMITTEE CONTACTS—Continued

Contact person	Committee/panel
Akinola Awojope, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5216, Silver Spring, MD 20993-0002, 301-636-0512, Akinola.Awojope@fda.hhs.gov .	Dental Products Panel; Ophthalmic Devices Panel; Orthopaedic and Rehabilitation Devices Panel.

SUPPLEMENTARY INFORMATION: FDA is or nonvoting consumer representatives requesting nominations for voting and/ for the vacancies listed in table 2:

TABLE 2—COMMITTEE DESCRIPTIONS, TYPE OF CONSUMER REPRESENTATIVE VACANCY, AND APPROXIMATE DATE NEEDED

Committee/panel/areas of expertise needed	Type of vacancy	Approximate date needed
FDA Science Board Advisory Committee—The Science Board provides advice to the Commissioner of Food and Drugs (Commissioner) and other appropriate officials on specific complex scientific and technical issues important to FDA and its mission, including emerging issues within the scientific community. Additionally, the Science Board provides advice that supports the Agency in keeping pace with technical and scientific developments, including in regulatory science; and input into the Agency's research agenda, and on upgrading its scientific and research facilities and training opportunities. It also provides, where requested, expert review of Agency-sponsored intramural and extramural scientific research programs.	1—Voting	Immediately.
Blood Products Advisory Committee—Knowledgeable in the fields of clinical and administrative medicine, hematology, immunology, blood banking, surgery, internal medicine, biochemistry, engineering, biological and physical sciences, biotechnology, computer technology, statistics, epidemiology, sociology/ethics, and other related professions.	1—Voting	October 1, 2025.
Cellular, Tissue and Gene Therapies—Knowledgeable in the fields of cellular therapies, tissue transplantation, gene transfer therapies and xenotransplantation (biostatistics, bioethics, hematology/oncology, human tissues and transplantation, reproductive medicine, general medicine, and various medical specialties including surgery and oncology, immunology, virology, molecular biology, cell biology, developmental biology, tumor biology, biochemistry, rDNA technology, nuclear medicine, gene therapy, infectious diseases, and cellular kinetics).	1—Voting	April 1, 2025.
Vaccines and Related Biological Products Advisory Committee—Knowledgeable in the fields of immunology, molecular biology, rDNA, virology, bacteriology, epidemiology or biostatistics, allergy, preventive medicine, infectious diseases, pediatrics, microbiology, and biochemistry.	1—Voting	February 1, 2025.
Anesthetic and Analgesic Drug Products Advisory Committee—Knowledgeable in the fields of anesthesiology, analgesics (such as: abuse deterrent opioids, novel analgesics, and issues related to opioid abuse), epidemiology or statistics, and related specialties.	1—Voting	Immediately.
Obstetrics, Reproductive and Urologic Drugs Advisory Committee—Knowledgeable in the fields of obstetrics, gynecology, urology, pediatrics, epidemiology, or statistics and related specialties.	1—Voting	Immediately.
Psychopharmacologic Drugs Advisory Committee—Knowledgeable in the fields of psychopharmacology, psychiatry, epidemiology or statistics, and related specialties.	1—Voting	Immediately.
Antimicrobial Drugs Advisory Committee—Knowledgeable in the fields of infectious disease, internal medicine, microbiology, pediatrics, epidemiology or statistics, and related specialties.	1—Voting	Immediately.
Drug Safety and Risk Management Advisory Committee—Knowledgeable in risk communication, risk management, drug safety, medical, behavioral, and biological sciences as they apply to risk management, and drug abuse.	1—Voting	Immediately.
Non-Prescription Drugs Advisory Committee—Knowledgeable in the fields of internal medicine, family practice, clinical toxicology, clinical pharmacology, pharmacy, dentistry, and related specialties.	1—Voting	Immediately.
Oncologic Drugs Advisory Committee—Knowledgeable in the fields of general oncology, pediatric oncology, hematologic oncology, immunologic oncology, biostatistics, and other related professions.	1—Voting	November 1, 2024.
Pharmaceutical Science and Clinical Pharmacology—Knowledgeable in the fields of pharmaceutical sciences (pharmaceutical manufacturing, bioequivalence research, laboratory analytical techniques, pharmaceutical chemistry, physiochemistry, biochemistry, molecular biology, immunology, microbiology) and clinical pharmacology (dose-response, pharmacokinetics-pharmacodynamics, modeling and simulation, pharmacogenomics, clinical trial design, pediatrics and special populations and innovative methods in drug development), biostatistics, related biomedical and pharmacological specialties, current good manufacturing practices, and quality systems implementation.	1—Voting	December 1, 2025.
Cardiovascular and Renal Drugs Advisory Committee—Knowledgeable in the fields of cardiology, hypertension, arrhythmia, angina, congestive heart failure, diuresis, and biostatistics.	1—Voting	Immediately.
Dermatologic and Ophthalmic Drugs Advisory Committee—Knowledgeable in the fields of dermatology, ophthalmology, internal medicine, pathology, immunology, epidemiology or statistics, and other related professions.	1—Voting	September 1, 2025.
Endocrinologic and Metabolic Drugs Advisory Committee—Knowledgeable in the fields of endocrinology, metabolism, epidemiology or statistics, and related specialties.	1—Voting	Immediately.
Medical Imaging Drugs Advisory Committee—Knowledgeable in the fields of nuclear medicine, radiology, epidemiology, statistics, and related specialties.	1—Voting	Immediately.

TABLE 2—COMMITTEE DESCRIPTIONS, TYPE OF CONSUMER REPRESENTATIVE VACANCY, AND APPROXIMATE DATE NEEDED—Continued

Committee/panel/areas of expertise needed	Type of vacancy	Approximate date needed
Peripheral and Central Nervous Systems Drugs Advisory Committee—Knowledgeable in the fields of neurology, pediatric neurology, epidemiology, statistics, and related specialties.	1—Voting	Immediately.
Anesthesiology and Respiratory Therapy Devices Panel—Anesthesiologists, pulmonary medicine specialists, or other experts who have specialized interests in ventilator support, pharmacology, physiology, or the effects and complications of anesthesia.	1—Nonvoting	Immediately.
Clinical Chemistry and Clinical Toxicology Devices Panel—Doctor of Medicine or Philosophy with experience in clinical chemistry (e.g., cardiac markers), clinical toxicology, clinical pathology, clinical laboratory medicine, and endocrinology.	1—Nonvoting	Immediately.
Ear, Nose and Throat Devices Panel—Otologists, neurotologists, audiologists	1—Nonvoting	Immediately.
General and Plastic Surgery Devices Panel—Surgeons (general, plastic, reconstructive, pediatric, thoracic, abdominal, pelvic, and endoscopic); dermatologists; experts in biomaterials, lasers, wound healing, and quality of life; and biostatisticians.	1—Nonvoting	Immediately.
Circulatory System Devices Panel—Interventional cardiologists, electrophysiologists, invasive (vascular) radiologists, vascular and cardiothoracic surgeons, and cardiologists with special interest in congestive heart failure.	1—Nonvoting	Immediately.
General Hospital and Personal Use Devices Panel—Internists, pediatricians, neonatologists, endocrinologists, nurses, biomedical engineers or microbiologists/infection control practitioners or experts.	1—Nonvoting	Immediately.
Hematology and Pathology Devices Panel—Hematologists (benign and/or malignant hematology), hematopathologists (general and special hematology, coagulation and homeostasis, and hematological oncology), gynecologists with special interests in gynecological oncology, cytopathologists, and molecular pathologists with special interests in development of predictive biomarkers.	1—Nonvoting	Immediately.
Immunology Devices Panel—Persons with experience in medical, surgical, or clinical oncology, internal medicine, clinical immunology, allergy, molecular diagnostics, or clinical laboratory medicine.	1—Nonvoting	Immediately.
Medical Devices Dispute Resolution Panel—Experts with broad, cross-cutting scientific, clinical, analytical or mediation skills.	1—Nonvoting	October 1, 2024.
Microbiology Devices Panel—Clinicians with an expertise in infectious disease, e.g., pulmonary disease specialists, sexually transmitted disease specialists, pediatric infectious disease specialists, experts in tropical medicine and emerging infectious diseases, mycologists; clinical microbiologists and virologists; clinical virology and microbiology laboratory directors, with expertise in clinical diagnosis and in vitro diagnostic assays, e.g., hepatologists; molecular biologists.	1—Nonvoting	Immediately.
Molecular and Clinical Genetics Devices Panel—Experts in human genetics and in the clinical management of patients with genetic disorders, e.g., pediatricians, obstetricians, neonatologists. The Agency is also interested in considering candidates with training in inborn errors of metabolism, biochemical and/or molecular genetics, population genetics, epidemiology, and related statistical training. Additionally, individuals with experience in genetic counseling, medical ethics, as well as ancillary fields of study will be considered.	1—Nonvoting	Immediately.
Radiological Devices Panel—Physicians with experience in general radiology, mammography, ultrasound, magnetic resonance, computed tomography, other radiological subspecialties, and radiation oncology; scientists with experience in diagnostic devices, radiation physics, statistical analysis, digital imaging, and image analysis.	1—Nonvoting	Immediately.
Dental Products Panel—Dentists, engineers and scientists who have expertise in the areas of dental implants, dental materials, periodontology, tissue engineering, and dental anatomy.	1—Nonvoting	Immediately.
Ophthalmic Devices Panel—Ophthalmologists with expertise in corneal-external disease, vitreo-retinal surgery, glaucoma, ocular immunology, ocular pathology; optometrists; vision scientists; and ophthalmic professionals with expertise in clinical trial design, quality of life assessment, electrophysiology, low vision rehabilitation, and biostatistics.	1—Nonvoting	Immediately.
Orthopaedic and Rehabilitation Devices Panel—Orthopedic surgeons (joint spine, trauma, and pediatric); rheumatologists; engineers (biomedical, biomaterials, and biomechanical); experts in rehabilitation medicine, sports medicine, and connective tissue engineering; and biostatisticians.	1—Nonvoting	Immediately.

I. Functions and General Description of the Committee Duties

A. FDA Science Board Advisory Committee

The Science Board Advisory Committee (Science Board) provides advice to the Commissioner of Food and Drugs (Commissioner) and other appropriate officials on specific complex scientific and technical issues important to FDA and its mission, including emerging issues within the scientific community. Additionally, the

Science Board provides advice that supports the Agency in keeping pace with technical and scientific developments, including in regulatory science, and input into the Agency's research agenda and on upgrading its scientific and research facilities and training opportunities. It also provides, where requested, expert review of Agency-sponsored intramural and extramural scientific research programs.

B. Blood Products Advisory Committee

Reviews and evaluates available data concerning the safety, effectiveness, and appropriate use of blood products derived from blood and serum or biotechnology which are intended for use in the diagnosis, prevention, or treatment of human diseases as well as the safety, effectiveness, and labeling of the products, on clinical and laboratory studies involving such products, on the affirmation or revocation of biological product licenses, and on the quality and relevance of FDA's research program

which provides the scientific support for regulating these products.

C. Cellular, Tissue, and Gene Therapies

Reviews and evaluates available data relating to the safety, effectiveness, and appropriate use of human cells, human tissues, gene transfer therapies, and xenotransplantation products which are intended for transplantation, implantation, infusion, and transfer in the prevention and treatment of a broad spectrum of human diseases and in the reconstruction, repair or replacement of tissues for various conditions, as well as considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

D. Vaccines and Related Biological Products

Reviews and evaluates data concerning the safety, effectiveness, and appropriate use of vaccines and related biological products which are intended for use in the prevention, treatment, or diagnosis of human diseases, as well as considers the quality and relevance of FDA's research program which provides scientific support for the regulation of these products.

E. Anesthetic and Analgesic Drug Products Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products including analgesics, *e.g.*, abuse-deterrent opioids, novel analgesics, and issues related to opioid abuse, and those for use in anesthesiology, and makes appropriate recommendations to the Commissioner.

F. Obstetrics, Reproductive and Urologic Products Advisory Committee

Reviews and evaluates data on the safety and effectiveness of marketed and investigational human drug products for use in the practice of obstetrics, gynecology, urology, and related specialties.

G. Psychopharmacologic Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the practice of psychiatry and related fields.

H. Antimicrobial Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of infectious diseases and disorders.

I. Drug Safety and Risk Management Advisory Committee

Reviews and evaluates information on risk management, risk communication, and quantitative evaluation of spontaneous reports for drugs for human use and for any other product for which FDA has regulatory responsibility. Advises on the scientific and medical evaluation of all information gathered by the Department of Health and Human Services (HHS) and the Department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances, and recommends actions to be taken by HHS with regard to the marketing, investigation, and control of such drugs or other substances.

J. Nonprescription Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products, or any other FDA-regulated product, for use in the treatment of a broad spectrum of human symptoms and diseases, and advises the Commissioner either on the promulgation of monographs establishing conditions under which these drugs are generally recognized as safe and effective and not misbranded or on the approval of new drug applications for such drugs. The Committee serves as a forum for the exchange of views regarding the prescription and nonprescription status, including switches from one status to another, of these various drug products and combinations thereof. The Committee may also conduct peer review of Agency-sponsored intramural and extramural scientific biomedical programs in support of FDA's mission and regulatory responsibilities.

K. Oncologic Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer.

L. Pharmaceutical Science and Clinical Pharmacology

Reviews and evaluates scientific, clinical, and technical issues related to the safety and effectiveness of drug products for use in the treatment of a broad spectrum of human diseases, the quality characteristics which such drugs purport or are represented to have, and as required, any other product for which FDA has regulatory responsibility, and make appropriate recommendations to the Commissioner. The Committee may also review Agency-sponsored

intramural and extramural biomedical research programs in support of FDA's drug regulatory responsibilities and its critical path initiatives related to improving the efficacy and safety of drugs and improving the efficiency of drug development.

M. Cardiovascular and Renal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and renal disorders.

N. Dermatologic and Ophthalmic Drugs

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of dermatologic and ophthalmic disorders.

O. Endocrinologic and Metabolic Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders.

P. Medical Imaging Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in diagnostic and therapeutic procedures using radioactive pharmaceuticals and contrast media used in diagnostic radiology.

Q. Gastrointestinal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal diseases.

R. Peripheral and Central Nervous System Drugs Advisory Committee

Reviews and evaluates data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of neurologic diseases.

S. Medical Devices Advisory Committee Panels

The Medical Devices Advisory Committee has established certain panels to review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation. With the exception of the Medical Devices Dispute Resolution Panel, each

panel, according to its specialty area: (1) advises on the classification or reclassification of devices into one of three regulatory categories and advises on any possible risks to health associated with the use of devices; (2) advises on formulation of product development protocols; (3) reviews premarket approval applications for medical devices; (4) reviews guidelines and guidance documents; (5) recommends exemption of certain devices from the application of portions of the Federal Food, Drug, and Cosmetic Act; (6) advises on the necessity to ban a device; and (7) responds to requests from the Agency to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices. With the exception of the Medical Devices Dispute Resolution Panel, each panel, according to its specialty area, may also make appropriate recommendations to the Commissioner on issues relating to the design of clinical studies regarding the safety and effectiveness of marketed and investigational devices.

The Medical Devices Dispute Resolution Panel provides advice to the Commissioner on complex or contested scientific issues between FDA and medical device sponsors, applicants, or manufacturers relating to specific products, marketing applications, regulatory decisions and actions by FDA, and Agency guidance and policies. The Panel makes recommendations on issues that are lacking resolution, are highly complex in nature, or result from challenges to regular advisory panel proceedings or Agency decisions or actions.

II. Criteria for Members

Persons nominated for membership as consumer representatives on committees or panels should meet the following criteria: (1) demonstrate an affiliation with and/or active participation in consumer or community-based organizations, (2) be able to analyze technical data, (3) understand research design, (4) discuss benefits and risks, and (5) evaluate the safety and efficacy of products under review. The consumer representative should be able to represent the consumer perspective on issues and actions before the advisory committee; serve as a liaison between the committee and interested consumers, associations, coalitions, and consumer organizations; and facilitate dialogue with the advisory committees on scientific issues that affect consumers.

III. Selection Procedures

Selection of members representing consumer interests is conducted through procedures that include the use of organizations representing the public interest and public advocacy groups. These organizations recommend nominees for the Agency's selection. Representatives from the consumer health branches of Federal, State, and local governments also may participate in the selection process. Any consumer organization interested in participating in the selection of an appropriate voting or nonvoting member to represent consumer interests should send a letter stating that interest to FDA (see **ADDRESSES**) within 30 days of publication of this document.

Within 45 days of the end of this 30-day period, FDA will compile a list of consumer organizations that will participate in the selection process and will forward to each such organization a ballot listing at least two qualified nominees selected by the Agency based on the nominations received, together with each nominee's current curriculum vitae or resume. Ballots are to be filled out and returned to FDA within 30 days. The nominee receiving the highest number of votes ordinarily will be selected to serve as the member representing consumer interests for that particular advisory committee or panel.

IV. Nomination Procedures

Any interested person or organization may nominate one or more qualified persons to represent consumer interests on the Agency's advisory committees or panels. Self-nominations are also accepted. Nominations must include a current, complete résumé or curriculum vitae for each nominee and a signed copy of the Acknowledgement and Consent form available at the FDA Advisory Nomination Portal (see **ADDRESSES**), and a list of consumer or community-based organizations for which the candidate can demonstrate active participation.

Nominations must also specify the advisory committee(s) or panel(s) for which the nominee is recommended. In addition, nominations must also acknowledge that the nominee is aware of the nomination unless self-nominated. FDA will ask potential candidates to provide detailed information concerning such matters as financial holdings, employment, and research grants and/or contracts to permit evaluation of possible sources of conflicts of interest. Members will be invited to serve for terms of up to 4 years.

FDA will review all nominations received within the specified timeframes and prepare a ballot containing the names of qualified nominees. Names not selected will remain on a list of eligible nominees and be reviewed periodically by FDA to determine continued interest. After selecting qualified nominees for the ballot, FDA will provide those consumer organizations that are participating in the selection process with the opportunity to vote on the listed nominees. Only organizations vote in the selection process. Persons who nominate themselves to serve as voting or nonvoting consumer representatives will not participate in the selection process.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: September 24, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024-22292 Filed 9-27-24; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Food and Drug Administration, Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA), Center for Veterinary Medicine's (CVM), Office of Management (OM) and Office of New Animal Drug Evaluation (ONADE) have modified their organizational structures. The new organizational structures were approved by the Secretary of Health and Human Services on July 22, 2024.

FOR FURTHER INFORMATION CONTACT: Yashika Rahaman, Director, Office of Planning, Evaluation, and Risk Management, Office of Finance, Budget, Acquisitions, and Planning, Food and Drug Administration, 4041 Powder Mill Rd., Beltsville, MD 20705-4304, 301-796-3843.

I. Introduction

Part D, Chapter D-B, (Food and Drug Administration), the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, 60 FR 56606, November 9, 1995,

64 FR 36361, July 6, 1999, 72 FR 50112, August 30, 2007, 74 FR 41713, August 18, 2009, 76 FR 45270, July 28, 2011, and 84 FR 22854, May 20, 2019) is amended to reflect the reorganization of CVM OM and ONADE.

The reorganization of OM merged the Budget Planning and Evaluation Staff (BPES) and the Program and Resource Management Staff (PRMS) and retitled the PRMS to the Financial Management Staff (FMS) and abolished BPES. The reorganization retitled ONADE to the Office of New Animal Product Evaluation (ONAPE), established the Regulatory Counsel Staff and the Administrative Staff, established branches within the Division of Food Animal Drugs, the Division of Companion Animal Drugs, the Division of Human Food Safety, the Division of Manufacturing Technologies, the Division of Business Information Science and Management, the Division of Animal Bioengineering and Cellular Therapies (DABCT), and the Division of Scientific Support (DSS). The reorganization retitled DABCT to the Division of Biotechnology and retitled DSS to the Division of Statistical and Biological Sciences. The reorganization established the Office of Generic Animal Drugs (OGAD), established the Business Management and Operations Staff and the Division of Manufacturing Technologies (DMT) under OGAD, realigned the Division of Generic Animal Drugs (DGAD) from ONADE to OGAD, and established branches under OGAD and DMT.

DCGB. ORGANIZATION. CVM's OM is headed by the Associate Director for Management, and includes the following:

- Financial Management Staff (DCGB1)
- Human Capital Management Staff (DCGB2)
- Talent Development Staff (DCGB3)
- Business Informatics Staff (DCGB5)

DCGC. ORGANIZATION. CVM's ONAPE is headed by the Director, and includes the following:

- Office of New Animal Product Evaluation (DCGC)
- Regulatory Counsel Staff (DCGC1)
- Administrative Staff (DCGC2)
- Division of Food Animal Drugs (DCGCA)
- Food Animal Branch 1 (DCGCA1)
- Food Animal Branch 2 (DCGCA2)
- Division of Companion Animal Drugs (DCGCC)
- Companion Animal Branch 1 (DCGCC1)
- Companion Animal Branch 2 (DCGCC2)
- Companion Animal Branch 3 (DCGCC3)
- Division of Human Food Safety (DCGCD)
- Human Food Safety Branch 1 (DCGCD1)

- Human Food Safety Branch 2 (DCGCD2)
- Division of Manufacturing Technologies (DCGCE)
- Feed and Topical Branch (DCGCE1)
- Sterile Drugs Branch (DCGCE2)
- Biotherapeutics Branch (DCGCE3)
- Chemotherapeutics Branch (DCGCE4)
- Drug Substance Branch (DCGCE5)
- Division of Statistical and Biological Sciences (DCGCF)
- Environmental Branch (DCGCF1)
- Biostatistics Branch 1 (DCGCF2)
- Biostatistics Branch 2 (DCGCF3)
- Clinical Pharmacology Branch (DCGCF4)
- Division of Business Information Science and Management (DCGCH)
- Business Informatics Branch (DCGCH1)
- Quality Assurance Branch (DCGCH2)
- Project Management Branch (DCGCH3)
- Division of Biotechnology (DCGCI)
- Animal Biotechnology Branch (DCGCI1)
- Biologic Products Branch (DCGCI2)

DCGG. ORGANIZATION. CVM's OGAD is headed by the Director, and includes the following:

- Office of Generic Animal Drugs (DCGG)
- Business Management and Operations Staff (DCGG1)
- Division of Generic Animal Drugs (DCGGA)
- Generics Review Branch 1 (DCGGA1)
- Generics Review Branch 2 (DCGGA2)
- Generics Review Branch 3 (DCGGA3)
- Generics Review Branch 4 (DCGGA4)
- Generics Review Branch 5 (DCGGA5)
- Division of Manufacturing Technologies (DCGGB)
- Generic Drug Manufacturing Branch 1 (DCGGB1)
- Generic Drug Manufacturing Branch 2 (DCGGB2)
- Generic Drug Manufacturing Branch 3 (DCGGB3)
- Generic Drug Substances and Facilities Assessment Branch (DCGGB4)

II. Delegations of Authority

Pending further delegation, directives, or orders by the Commissioner of Food and Drugs, all delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

III. Electronic Access

This reorganization is reflected in FDA's Staff Manual Guide (SMG). Persons interested in seeing the complete SMG can find it on FDA's website at: <https://www.fda.gov/AboutFDA/ReportsManualsForms/StaffManualGuides/default.htm>.

(Authority: 44 U.S.C. 3101)

Xavier Becerra,

Secretary, Department of Health and Human Services.

[FR Doc. 2024–22147 Filed 9–26–24; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–2672]

Amended Environmental Assessment for Production of AquAdvantage Salmon at the Bay Fortune and Rollo Bay Facilities on Prince Edward Island, Canada; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the availability of a document entitled “Amended Environmental Assessment for Production of AquAdvantage Salmon at the Bay Fortune and Rollo Bay Facilities on Prince Edward Island, Canada.” This amended environmental assessment (EA) has been prepared by FDA in support of the approved new animal drug application (NADA 141–454) concerning AquAdvantage Salmon (AAS), in response to an order by the U.S. District Court, Northern District of California.

FOR FURTHER INFORMATION CONTACT:

Holly Zahner, Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–402–0834, holly.zahner@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a document entitled “Amended Environmental Assessment for Production of AquAdvantage Salmon at the Bay Fortune and Rollo Bay Facilities on Prince Edward Island, Canada.” This amended EA has been prepared by FDA in support of the approved application (NADA 141–454) concerning AAS, in response to an order by the U.S. District Court, Northern District of California, issued on November 5, 2020; *Inst. for Fisheries Res. v. United States Food and Drug Adm'n*, 499 F. Supp. 3d 657, 660 (N.D. Cal. 2020) and is available in the docket.

On November 19, 2015, FDA approved NADA 141–454 concerning AAS, owned by AquaBounty Technologies (ABT). AAS are triploid, hemizygous, all-female Atlantic salmon

(*Salmo salar*) bearing a single copy of the α -form of the *opAFP-GHc2* recombinant DNA (rDNA) construct at the α -locus in the E.O.-1 α lineage. AAS is designed to exhibit a rapid-growth phenotype. The November 19, 2015, NADA approval allowed for the AAS to be produced at a facility on Prince Edward Island (PEI), Canada, and grown at a facility in Panama (that has subsequently closed) and allowed for sale of food harvested from AAS in the United States.

As part of the NADA review process under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, *et seq.*) and consistent with the mandates in the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*) and FDA's environmental impact considerations regulations (21 CFR part 25), FDA's Center for Veterinary Medicine prepared an EA dated November 12, 2015, for the original approval of the rDNA construct as integrated in the genome of AAS. Based on the 2015 EA and the specific conditions that were established in the NADA, FDA determined the action would not individually or cumulatively have a significant effect on the quality of the human environment in the United States. Therefore, FDA prepared a finding of no significant impact (FONSI). Based on the findings in the 2015 EA, FDA also made a "no effect" determination under the Endangered Species Act (ESA) (16 U.S.C. 1531, *et seq.*), concluding that AAS, when produced and reared under the conditions in the application, and as described in the 2015 EA, would not jeopardize the continued existence of U.S. populations of threatened or endangered Atlantic salmon or result in the destruction or adverse modification of their critical habitat.

Subsequently, several organizations filed suit in the U.S. District Court, Northern District of California, challenging, among other things, FDA's evaluations under NEPA and the ESA for the 2015 NADA approval. On November 5, 2020, the Court found that "FDA did not . . . meaningfully analyze what might happen to normal salmon in the event the engineered salmon did survive and establish themselves in the wild. Even if this scenario was unlikely, the FDA was still required to assess the consequences of it coming to pass." The Court ordered FDA to complete the analysis and reconsider its "no effect" determination under the ESA together with a revised NEPA evaluation. See *Inst. for Fisheries Res. v. United States Food and Drug Adm'n*, 499 F. Supp. 3d 657, 660 (N.D. Cal. 2020). However, the

Court did not vacate the approval; the approval remains in effect.

To address the November 5, 2020, Court opinion, we prepared a draft amended EA, titled "Draft Amended Environmental Assessment for Production of AquAdvantage Salmon at the Bay Fortune and Rollo Bay Facilities on Prince Edward Island, Canada." We requested that the public review that draft amended EA and submit comments to the docket (87 FR 69032, November 17, 2022). We also held a virtual public meeting on December 15, 2022, at which we solicited comment on the draft amended EA (87 FR 69030, November 17, 2022).

In that draft amended EA, we expanded our assessment beyond that in the 2015 EA to include an exhaustive analysis of the likelihood and severity of harms that could occur if AAS and AquAdvantage broodstock (collectively referred to in the amended EA as ABT Salmon) are assumed to be present in the U.S. aquatic environment. We outlined the pathways necessary for ABT Salmon to escape confinement from the PEI facilities and migrate to and establish a persistent population in the United States. We also evaluated the potential pathways for disease (including pathogen and parasite) transmission from ABT Salmon and from the production of ABT Salmon at facilities on PEI to wild fish populations. In addition, we identified and evaluated the potential harms (consequences) to the U.S. environment and the endangered Atlantic salmon of the Gulf of Maine Distinct Population Segment if these highly unlikely scenarios were to occur. Finally, we revisited whether there is a potential for significant impacts on the U.S. environment under NEPA, and whether the action could result in effects on threatened and endangered Atlantic salmon and their critical habitat in the United States under the ESA.

We note that the information and analyses in the draft amended EA reflected comments and input received from the National Marine Fisheries Service and the Fish and Wildlife Service during an ESA technical assistance review.

We received 1,728 comment submissions on the draft amended EA. Please refer to "Summary Responses to Public Comments on the November 2022 AAS Draft Amended Environmental Assessment" (<https://www.fda.gov/media/181568/download?attachment>) for a summary and FDA review of these comments.

FDA is announcing the availability of an EA entitled "Amended Environmental Assessment for

Production of AquAdvantage Salmon at the Bay Fortune and Rollo Bay Facilities on Prince Edward Island, Canada." This document can be found at <https://animaldrugsatfda.fda.gov/adafda/views/#/home/previewsearch/141-454#eaid>.

We have also prepared and are making available a FONSI and, based on the findings in the EA, have made a "no effect" determination under the ESA, concluding that AAS, when produced and reared under the conditions as described in the EA, will not jeopardize the continued existence of U.S. populations of threatened or endangered Atlantic salmon or result in the destruction or adverse modification of their critical habitat. This document can be found at <https://animaldrugsatfda.fda.gov/adafda/views/#/home/previewsearch/141-454#eaid>.

Dated: September 24, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024-22308 Filed 9-27-24; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2018-D-4115]

Clarification of Radiation Control Regulations for Manufacturers of Diagnostic X-Ray Equipment; 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 "Clarification of Radiation Control Regulations for Manufacturers of Diagnostic X-Ray Equipment." This guidance provides clarification to industry and FDA staff of the Federal regulations that relate to diagnostic x-ray equipment. These regulations pertain to the recordkeeping, reporting, manufacturing, importing, and installation of an "electronic product" as defined in FDA regulations. This guidance supersedes FDA's 1989 guidance entitled "Clarification of Radiation Control Regulations for Diagnostic X-Ray Equipment."

DATES: The announcement of the guidance is published in the **Federal Register** on September 30, 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-2018-D-4115 for "Clarification of Radiation Control Regulations for Manufacturers of Diagnostic X-Ray Equipment." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two

copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled "Clarification of Radiation Control Regulations for Manufacturers of Diagnostic X-Ray Equipment" 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:

Laurel Burk, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3668, Silver Spring, MD 20993-0002, 301-796-5933.

SUPPLEMENTARY INFORMATION:

I. Background

This guidance provides clarification to industry and FDA staff of the Federal regulations that relate to diagnostic x-ray equipment. Under the Federal Food, Drug, and Cosmetic Act (FD&C Act), diagnostic x-ray systems are considered to be both medical devices, under section 201(h) of the FD&C Act (21 U.S.C. 321(h)), and electronic products, under section 531 of the FD&C Act (21 U.S.C. 360hh). As such, they are subject to the provisions of the FD&C Act that apply to medical devices (*e.g.*, sections 510 and 520 of the FD&C Act (21 U.S.C. 360 and 360j)), and their implementing regulations, as well as the provisions of the FD&C Act (sections 531 through 542 of the FD&C Act (21 U.S.C. 360hh through 360ss)) that apply to electronic products, known as the Electronic Product Radiation Control (EPRC) provisions and their implementing regulations. FDA's EPRC regulations pertain to the recordkeeping, reporting, manufacturing, importing, and installation of an "electronic product" as defined under 21 CFR 1000.3(j). This guidance supersedes FDA's guidance entitled "Clarification of Radiation Control Regulations for Diagnostic X-Ray Equipment" (HHS Publication FDA 89-8221 issued in March 1989).

A notice of availability of the draft guidance appeared in the **Federal Register** of December 17, 2018 (83 FR 64584). FDA considered the comments received and revised the guidance as appropriate. Revisions include the addition of new questions and updates to existing questions in the sections related to alternate test methods to demonstrate compliance with performance standards, as well as the applicability of performance standards to x-ray based image-guidance used with radiation therapy devices, certification and associated labeling of certifiable components, assembly instructions, accidental radiation occurrence, and defects. In addition, FDA revised other questions and responses throughout the guidance to provide additional clarification and for editorial accuracy. Questions and responses related to certain reports that are no longer required were also removed (see "Radiological Health Regulations; Amendments to Records and Reports for Radiation Emitting Electronic Products; Amendments to Performance Standards for Diagnostic X-ray, Laser, and Ultrasonic Products" published in the **Federal Register** of January 20, 2023 (88 FR 3638)).

This guidance is being issued consistent with FDA's good guidance

practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on “Clarification of Radiation Control Regulations for Manufacturers of Diagnostic X-Ray Equipment.” It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological

Health guidance documents is available at <https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products>. This guidance document is also available at <https://www.regulations.gov> or <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>. Persons unable to download an electronic copy of “Clarification of Radiation Control Regulations for Manufacturers of Diagnostic X-Ray Equipment” may send an email request to CDRH-Guidance@fda.hhs.gov to receive an electronic copy of the

document. Please use the document number GUI01500029 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 FDA table have been approved by OMB:

21 CFR Part or FDA Form	Topic	OMB Control No.
1002, 1005, 1010, 1020, 1030, 1040, and 1050; form FDA 2579 and form FDA 2877.	Reporting and Recordkeeping for Electronic Products—General Requirements.	0910–0025
800, 801, and 809	Labeling	0910–0485
812	Investigational Device Exemption	0910–0078
“Allegations of Regulatory Misconduct” form	Voluntary Allegations of Regulatory Misconduct	0910–0769

Dated: September 25, 2024.
Lauren K. Roth,
Associate Commissioner for Policy.
[FR Doc. 2024–22332 Filed 9–27–24; 8:45 am]
BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration
[Docket Nos. FDA–2024–N–0758, FDA–2024–N–2032, FDA–2023–N–3847, and FDA–2024–N–1201]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approvals

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of information collections that have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: The following is a list of FDA information collections recently approved by OMB under section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

The OMB control number and expiration date of OMB approval for each information collection are shown in table 1. Copies of the supporting statements for the information collections are available on the internet at <https://www.reginfo.gov/public/do/PRAMain>. 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.

TABLE 1—LIST OF INFORMATION COLLECTIONS APPROVED BY OMB

Title of collection	OMB control No.	Date approval expires
New Plant Varieties Intended for Food Use	0910–0583	9/30/2027
Food and Cosmetic Export Certificates	0910–0793	9/30/2027
Biological Products; General Records and Postmarket Adverse Experience Reporting	0910–0308	9/30/2027
Voluntary Total Product Life Cycle Advisory Program Pilot	0910–0930	9/30/2027

Dated: September 24, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–22291 Filed 9–27–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Recharter for the Council on Graduate Medical Education

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Department of Health and Human Services is hereby giving notice that the Council on Graduate Medical Education (COGME or Council) is rechartered.

DATES: The effective date of the renewed charter is September 30, 2024.

FOR FURTHER INFORMATION CONTACT:

Shane Rogers, Designated Federal Official (DFO), Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, 5600 Fishers Lane, Room 15N142, Rockville, Maryland 20857; 301–443–5260; or srogers@hrsa.gov.

SUPPLEMENTARY INFORMATION: COGME makes recommendations to the Secretary of Health and Human Services and Congress on matters specified by section 762 of the Public Health Service Act. Issues addressed by COGME include: (1) the supply and distribution of physicians in the United States; (2) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties; (3) issues relating to international medical school graduates; (4) appropriate federal policies with respect to the matters specified in (1), (2), and (3) above, including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs; (5) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathic medicine, and accrediting bodies with respect to the matters specified in (1), (2), and (3) above, including efforts for changes in undergraduate and graduate medical education programs; and (6) deficiencies in, and needs for improvements in, existing databases concerning the supply and distribution of, and

postgraduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies. Not later than September 30, 2023, and not less than every 5 years thereafter, COGME shall submit a report on the recommendations made by the committee to the Secretary of Health and Human Services, and to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Energy and Commerce of the House of Representatives. Additionally, COGME encourages entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council; develops, publishes, and implements performance measures; develops and publishes guidelines for longitudinal evaluations; and recommends appropriation levels for certain programs under title VII of the Public Health Service Act.

The renewed charter for COGME was approved on September 18, 2024. The filing date is September 30, 2024. The recharter of COGME gives authorization for the Council to operate until September 30, 2026.

A copy of the COGME charter is available on the COGME website at <https://www.hrsa.gov/sites/default/files/hrsa/advisory-committees/graduate-medical-edu/cogme-charter.pdf>. A copy of the charter also can be obtained by accessing the FACA database that is maintained by the Committee Management Secretariat under the General Services Administration. The website address for the FACA database is <http://www.facadatabase.gov/>.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2024–22256 Filed 9–27–24; 8:45 am]

BILLING CODE 4165–15–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 Office of AIDS Research Advisory Council.

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. The meeting can be accessed from the NIH Videocast at the following link: <https://videocast.nih.gov/>.

Name of Committee: Office of AIDS Research Advisory Council.

Date: October 24, 2024.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: Report from the OAR Director; Update on the Development of the NIH Strategic Plan and Research Priorities for HIV Research.

Place: Office of AIDS Research, Office of the Director, NIH, 5601 Fishers Lane, Rockville, MD 20852, (Virtual Meeting) <https://videocast.nih.gov/>.

Contact Person: CAPT Mary Glenshaw, Ph.D., M.P.H., OTR/L, Office of AIDS Research, Office of the Director, NIH, 5601 Fishers Lane, Room 2E61, Rockville, MD 20852, (301) 496–0357, OARACinfo@nih.gov.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: www.oar.nih.gov, where an agenda and any additional information for the meeting will be posted when available.

(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: September 24, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22274 Filed 9–27–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Aging and Neurodegeneration Integrated Review Group; Clinical Neurodegeneration Translational Neuroscience Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency, Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Meeting Format: In-Person Meeting.

Contact Person: Jordan M. Moore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1002A1, Bethesda, MD 20892, (301) 451–0293, jordan.moore@nih.gov.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics Study Section.

Date: October 24–25, 2024.

Time: 8:00 a.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Bethesdan Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Meeting Format: In-Person Meeting.

Contact Person: Altaf Ahmad Dar, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–2680, altaf.dar@nih.gov

Name of Committee: Social and Community Influences on Health Integrated Review Group; Social Sciences and Population Studies B Study Section.

Date: October 24–25, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Meeting Format: In-Person Meeting.

Contact Person: Kate Fothergill, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3142, Bethesda, MD 20892, 301–435–2309, fothergillke@mail.nih.gov.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Imaging Technology Development Study Section.

Date: October 24–25, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Guo Feng Xu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5122, MSC 7854, Bethesda, MD 20892, (301) 237–9870, xuguofen@csr.nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Brain Injury and Neurovascular Disorders Study Section.

Date: October 24–25, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Paula Elyse Schauwecker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, Bethesda, MD 20892, 301–760–8207, schauweckerpe@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neuromodulation and Imaging of Neuronal Circuits.

Date: October 24–25, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Pablo Miguel Blazquez Gamez, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, pablo.blazquezgamez@nih.gov.

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Pulmonary Vascular Disease and Physiology Study Section.

Date: October 24–25, 2024.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814 Bethesda, MD 20892, 301–451–8754, nussb@csr.nih.gov.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroplasticity and Neurotransmitters Study Section.

Date: October 24–25, 2024.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Suzan Nadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217B, MSC 7846, Bethesda, MD 20892, 301–435–1259, nadis@csr.nih.gov.

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Molecular and Structural Immunology Study Section.

Date: October 24–25, 2024.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Velasco Cimica, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–1760, velasco.cimica@nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Biophysical, Physiological, Pharmacological and Bioengineering Neuroscience, and Vision.

Date: October 24–25, 2024.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Angela Monique Boutte, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Bethesda, MD 20892, (301) 594–0063, boutteam@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 24, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22362 Filed 9–27–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Adolescent Brain & Cognitive Development (ABCD) StudySM—Audience Feedback Teams (National Institute on Drug Abuse)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Kimberly LeBlanc, Scientific Program Manager, Division of Extramural Research, National Institute on Drug Abuse, C/O NIH Mail Center/Dock 11, 3WFN Room 09C77 MSC 6021, Gaithersburg, MD 20877 (20892 for USPS), or call non-toll-free number (301) 827-4102, or Email your request, including your address, to: kimberly.leblanc@nih.gov. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This information collection was previously published in the **Federal Register** on October 2, 2023 (88 FR 67775–67776) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment.

The National Institute on Drug Abuse (NIDA), National Institutes of Health,

may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Adolescent Brain & Cognitive Development (ABCD) StudySM—Audience Feedback Teams, 0925–0781, exp., date 03/31/2027, REVISION National Institute on Drug Abuse (NIDA), National Institutes of Health (NIH).

Need and Use of Information Collection: The purpose of this information collection request is to solicit audience feedback to improve the data collection process for the Adolescent Brain Cognitive Development (ABCD) Study. Started in 2015, the ABCD Study[®] follows a cohort of over 10,000 young people from pre-adolescence into adulthood to understand how growing brains are shaped by experiences and biology. To prepare for each year’s Study data collection, the National Institute of Health is collecting audience feedback on a selection of survey questions and

research protocols. Parents/caregivers and teens who are the same age as the study cohort members but who are not Study participants review proposed questions and give feedback on questions’ clarity and acceptability. Recommendations from these findings help the ABCD Study team improve their protocol for a more-successful data collection.

Audience feedback activities include a mix of asynchronous and scheduled, live data collection: web-based survey activities, virtual discussion boards, individual interviews, and discussions groups. Assembling a cohort of audience feedback participants who are familiar with the ABCD Study and participate in multiple data collection activities minimizes the burden required to familiarize new participants with the purpose of the Study and the expectations for audience feedback.

The purpose of this revision is to update the stimuli for which teens and parents/caregivers are providing feedback on wording, clarity, and areas for improvement. This revision updates stimuli for which feedback is complete and includes options for new or revised stimuli and feedback questions. Burden levels remain unchanged.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 172.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
A—Parent/Caregiver Phone Screener and Invitation.	Parents/Caregivers	72	1	5/60	6
B—Parent/Caregiver Consent	Parents/Caregivers	15	1	5/60	1
C—Parent or Guardian Permission for Teens	Parents/Legal Guardians.	36	1	5/60	3
D—Teen Phone Screener	Teens	72	1	5/60	6
E—Teen Assent or F—Teen Consent	Teens	36	1	10/60	6
G—Teen Web Survey	Teens	36	2	30/60	36
H—Parent/Caregiver Web Survey	Parents/Caregivers	15	2	30/60	15
I—Teen Virtual Discussion Group Guide or K—Teen Online Bulletin Board Guide.	Teens	36	2	1	72
J—Parent/Caregiver Virtual Interview Guide	Parents/Caregivers	15	1	30/60	8
L—Parent/Caregiver Online Bulletin Board Guide	Parents/Caregivers	15	1	1	15
M—Parent/Caregiver “At-Home” Materials Review.	Parent/Caregivers	15	1	15/60	4
TOTAL .....	.....	.....	450	.....	172

Lanette A. Palmquist,

Project Clearance Liaison, National Institute on Drug Abuse, National Institutes of Health.

[FR Doc. 2024–22367 Filed 9–27–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID SBIR Phase II Clinical Trial Implementation Cooperative Agreement (U44 Clinical Trial Required).

Date: October 24, 2024.

Time: 12:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40A, Rockville, MD 20892 (Video Assisted Meeting).

Contact Person: Robert C. Unfer, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3F40A, Rockville, MD 20892, (240) 669–5035, robert.unfer@nih.gov. (Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: September 25, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22377 Filed 9–27–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request Investigational Agent Accountability Record Forms and International Investigator Statement in the Conduct of Investigational Trials for the Treatment of Cancer (National Cancer Institute)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to www.reginfo.gov/public/do/PRAMain. Find this particular information collection by selecting “Currently under 30-day Review—Open for Public Comments” or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Charles Hall, Chief, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, Division of Cancer Diagnosis and Treatment, National Cancer Institute, 9609 Medical Center Drive, Bethesda, Maryland 20892 or call non-toll-free number (240) 276–6575 or Email your request, including your address to: HallCh@mail.nih.gov.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on July 12, 2024 (89 FR 57157) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is

to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Investigational Agent Accountability Record Forms and International Investigator Statement in the Conduct of Investigational Trials for the Treatment of Cancer (National Cancer Institute), 0925–0613, Expiration Date 1/31/2025, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: The Food and Drug Administration (FDA) requires Investigational New Drug Application (IND) sponsors to maintain adequate records on the shipment and disposition of agents to investigators. The agent accountability effort for the National Cancer Institute/Division of Cancer Treatment and Diagnosis/Cancer Therapy Evaluation Program (NCI/DCTD/CTEP) is managed by the Pharmaceutical Management Branch (PMB) at CTEP. The Investigational Agent Accountability Records (a.k.a. Drug Accountability Record Forms—DARF) are used to provide a standardized method of tracking agent disposition across all institutions participating in trials for which the NCI provides agents. Institutional auditors verify information on the agent accountability forms for compliance. In addition, PMB staff review Investigational Agent Accountability Record Forms against records maintained in PMB systems to ensure there is no inappropriate use or diversion of investigational agents.

OMB approval is requested for 3 years. Respondents’ only cost is their time. The total estimated annualized burden is 4,166 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Category of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
A1: Investigational Agent Accountability Record Form (DARF).	Individuals	1,000	20	4/60	1,333

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Category of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
A2: Investigational Agent Accountability Record for Oral Agents Form (DARF-Oral).	Individuals	1,500	20	4/60	2,000
A3: Electronic Agent Accountability Record Form (eDARF).	Individuals	2,500	20	1/60	833
Totals .....	.....	5,000	100,000	.....	4,166

Dated: September 25, 2024.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2024–22383 Filed 9–27–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Small Research Grants (R03) for New Investigators and Secondary Data Analysis PARs Review.

Date: November 6–7, 2024.

Time: 9:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental & Craniofacial Research, 31 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Thomas John O'Farrell, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, 31 Center Drive, Bethesda, MD 20892, (301) 584–4859, email: tom.ofarrell@nih.gov.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Assessment of Climate at Institutions (ACt) Award (RC2—Clinical Trial Not Allowed).

Date: November 8, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental & Craniofacial Research, 31 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christopher Campbell, Ph.D., MD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, 31 Center Drive, Bethesda, MD 20892, (301) 827–4603, email: christopher.campbell@nih.gov.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; Prospective Observational or Biomarker Validation Study Cooperative Agreement.

Date: November 12, 2024.

Time: 3:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental & Craniofacial Research, 31 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Christopher Campbell, Ph.D., MD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, 31 Center Drive, Bethesda, MD 20892, (301) 827–4603, email: christopher.campbell@nih.gov.

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: September 25, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22371 Filed 9–27–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the *Eunice Kennedy Shriver* National Institute of Child Health and Human Development

Special Emphasis Panel, Optimizing Outcomes of Children and Adolescents with Perinatal HIV Exposure (U19), November 07, 2024, 09:00 a.m. to 05:00 p.m., 6710 B Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on August 28, 2024, FR Doc. No. 2024–19290, 89 FR 68911.

This notice is being amended to change the meeting from a one-day meeting on November 7, 2024, 9:00 a.m. to 5:00 p.m., to a two-day meeting starting on November 7, 2024, 9:00 a.m. to November 8, 2024, 5:00 p.m. The meeting is closed to the public.

Dated: September 25, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22375 Filed 9–27–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Dog Aging Project.

Date: November 6, 2024.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, 5601 Fishers Lane, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Kaitlyn Noel Lewis Hardell, Ph.D., MPH, Scientific Review Officer, National Institute of Aging, National Institute of Health, 5601 Fishers Lane, Rm 2E405, Rockville, MD 20814, (301) 555-1234, kaitlyn.hardell@nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: September 24, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-22364 Filed 9-27-24; 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 Special Emphasis Panel; RFA DK23-007 HIRN-CBDS.

Date: November 21-22, 2024.

Time: 10:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institutes of Health, NIDDK, Democracy II, Suite 7000A, 6707 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, National Institute of Diabetes and Digestive and Kidney, National Institute of Health, 6707 Democracy Boulevard, Rm 7119, Bethesda, MD, 20892-2542, 301-594-2242, jerkinsa@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: September 24, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024-22368 Filed 9-27-24; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0102]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Form G-639; Freedom of Information/Privacy Act Request

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.*, the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 30 days until October 30, 2024.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be submitted via the Federal eRulemaking Portal website at <http://www.regulations.gov> under e-Docket ID number USCIS-2008-0028. All submissions received must include the OMB Control Number 1615-0102 in the body of the letter, the agency name and Docket ID USCIS-2008-0028. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS-2008-0028.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721-3000 (This is not a

toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on June 28, 2024 at 89 FR 54027, allowing for a 60-day public comment period. USCIS did receive three comments in connection with the 60-day notice.

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2008-0028 in the search box. Comments must be submitted in English, or an English translation must be provided. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form G–639; Freedom of Information/Privacy Act Request; USCIS.

(3) *Affected public who will be asked or required to respond, as well as a brief abstract:* **Primary:** Individuals or households. Form G–639 is used to request access to U.S. Citizenship and Immigration Services (USCIS) records under the Freedom of Information Act (FOIA) and the Privacy Act of 1974 (PA), if applicable. This form is also used to request amendment or correction of records under the PA, if applicable. USCIS created Form G–639 as a convenient and expeditious option that individuals can use in lieu of submitting written FOIA requests. Form G–639 can be submitted electronically using the online FOIA Immigration Records System (FIRST) or printed and submitted by mail.

(4) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form G–639 (paper) is 74,558 and the estimated hour burden per response is 0.67 hours. The estimated total number of respondents for the information collection Online FOIA Request is 365,872 and the estimated hour burden per response is 0.5 hours.

(5) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 232,890 hours.

(6) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$4,155,376.50.

Dated: September 12, 2024.

Samantha L. Deshommes,
Chief, Regulatory Coordination Division,
Office of Policy and Strategy, U.S. Citizenship
and Immigration Services, Department of
Homeland Security.

[FR Doc. 2024–22276 Filed 9–27–24; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0161]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for Parole in Place for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until November 29, 2024.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0161 in the body of the letter, the agency name and Docket ID USCIS–2024–0011. Submit comments via the Federal eRulemaking Portal website at <https://www.regulations.gov> under e-Docket ID number USCIS–2024–0011.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case

status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS–2024–0011 in the search box. Comments must be submitted in English, or an English translation must be provided. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application For Parole In Place For Certain Noncitizen Spouses And Stepchildren Of U.S. Citizens.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-131F; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* Individuals or households. Form I-131F will be used by certain noncitizens to request parole in place on the basis of being a qualified noncitizen spouse or stepchild of a U.S. citizen who is present in the United States without admission or parole under the Parole Process for Certain Noncitizen Spouses and Stepchildren of U.S. Citizens. USCIS will use the information collected on the form to verify the applicant's status and determine their eligibility to obtain parole in place. These requests will be considered on a case-by-case basis.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I-131F is 550,000 and the estimated hour burden per response is 1.1667 hours; the estimated total number of respondents for collecting biometrics for the information collection I-131F is 550,000 and the estimated hour burden per response is 1.17 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 1,285,185 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$283,250,000.

Dated: September 24, 2024.

Samantha L. Deshommes,

Chief, Regulatory Coordination Division,
Office of Policy and Strategy, U.S. Citizenship
and Immigration Services, Department of
Homeland Security.

[FR Doc. 2024-22275 Filed 9-27-24; 8:45 am]

BILLING CODE 9111-97-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-HQ-JAO-2024-N040;
FXGO16621010070-245-FF10G13100; OMB
Control Number 1018-New]

Agency Information Collection Activities; Submission to the Office of Management and Budget; Improving Our Understanding of How Trout Anglers Differ in Their Valuations Between Wild and Hatchery Trout

AGENCY: Fish and Wildlife Service,
Interior.

ACTION: Notice of information collection;
request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before October 30, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection request (ICR) should be submitted within 30 days of publication of this notice at <https://www.reginfo.gov/public/do/PRAMain>. Find this particular information collection by selecting "Currently under Review—Open for Public Comments" or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to Info_Coll@fws.gov. Please reference "1018-Trout Angler Survey" in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Madonna L. Baucum, Service Information Collection Clearance Officer, by email at Info_Coll@fws.gov, or by telephone at (703) 358-2503. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320.8(d)(1), all information collections require approval under the

PRA. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

On March 12, 2024, we published in the **Federal Register** (89 FR 17868) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on May 13, 2024. In an effort to increase public awareness of, and participation in, our public commenting processes associated with information collection requests, the Service also published the **Federal Register** notice on [Regulations.gov](https://www.regulations.gov) (Docket No. FWS-HQ-JAO-2024-0029) to provide the public with an additional method to submit comments (in addition to the typical U.S. mail submission method). We received four comments in response to that notice. None of the comments addressed the information collection requirements; therefore, no responses are required to the comments.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are 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 might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

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

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

Abstract: The Fish and Wildlife Act of 1956 (16 U.S.C. 742(a)–754) establishes a comprehensive national fish and wildlife policy and authorizes the Secretary of the Interior to take steps required for the development, management, advancement, conservation, and protection of fisheries resources and wildlife resources through research, acquisition of refuge lands, development of existing facilities, and other means. The Service, working with others, is responsible for conserving, protecting, and enhancing fish and wildlife and their habitats for the continuing benefit of the American people through Federal programs relating to migratory birds, endangered species, interjurisdictional fish and marine mammals, and inland sport fisheries.

Pursuant to this mission, the Service acts as a trustee for injured natural resources when oil or hazardous substances are spilled or released into the environment. Through data collected, scientific assessment techniques, and extrapolated through economic analyses, trustees seek to identify the natural resources injured from oil or hazardous substances, determine the extent of the injuries, recover damages from those responsible, and plan and carry out restoration activities. The primary benefit of the Service's Natural Resource Damage Assessment and Response (NRDAR) program is to achieve restoration of injured resources for the benefit of the American people, and at no cost. This program seeks compensation from responsible parties to restore natural resources for all and allows all Americans to enjoy clean and safe public rivers and lands.

One aspect of the NRDAR program relates to releases of oil or hazardous substances that result in the loss of wild trout populations. When wild trout populations are killed or injured during a release event, one remedy includes using hatchery trout to replace wild trout populations. The potential problem with this approach is that there is substantial anecdotal evidence that trout anglers value and value catching wild trout and hatchery trout differently. If anglers value wild trout

lost in a spill or release more highly than hatchery trout, then they may not have been made fully whole by a restoration action that substitutes hatchery trout for wild trout.¹ An examination of existing trout angler valuation studies found that, in the majority of cases, no attempt was made to distinguish between angler values associated with fishing for hatchery vs. wild trout. This collection proposes a random survey of licensed anglers designed to elicit data sufficient to estimate any differences in preferences and values associated with fishing for wild vs. hatchery trout. The data generated through the proposed information collection will provide theoretically sound and statistically defensible estimates of angler experience values for use in gauging required compensation levels for lost or injured trout resources. For the current collection, State-licensed angler populations from three States are included, focusing on three distinct trout fishing regions of the United States.

Legal and administrative justifications for this collection can be found under 43 CFR part 11, Natural Resource Damage Assessments, through the authority of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA; 42 U.S.C. 9601 *et seq.*), and the Clean Water Act (CWA; 33 U.S.C. 1251–1376), which give Federal agencies authority to assess damages to natural resources resulting from a release of a hazardous substance or a discharge of oil covered under CERCLA or the CWA and to seek recovery for those damages.

The proposed collection and subsequent analysis will be used by the Service and other NRDAR trustees to improve methods used to properly compensate trout anglers for fishery injuries. The surveys will be designed to support the estimation of the appropriate “compensation ratio” between lost wild trout and hatchery trout used in restoration activities. This information will be used specifically by economists and other analysts tasked with assessing damages and scaling restoration activities.

Further, while the primary goal of the collection is limited to estimating the

appropriate compensation ratio between wild and hatchery trout, valuation data will also be collected to allow further refinement of this ratio by area of the Nation, type of water fished, type of fishing gear used, and consumptive vs. catch-and-release fishing, to allow results to be applied in future NRDAR cases across different geographies and demographics.

This study includes a repeat contact mail-back/electronic survey of a random sample of licensed anglers drawn from three representative U.S. States (yet to be determined). We plan to contact a total of 3,000 licensed anglers (1,000/State). Based on previous survey efforts using similar methods, we expect an average response rate of 40 percent across the 3 States, yielding 1,200 completed responses. The total burden for this one-time collection is estimated to be 300 hours.

Mail/Online Follow-up Visitor Survey: The current collection benefits from and builds on a successful Minnesota (MN) 2021 survey instrument² which incorporated a very similar structure, length, and willingness to pay elicitation question format. This MN random household mail survey was anticipated to have a 14-to-16 percent response rate—typical for this type of unsolicited random household survey. The final response rate for the MN survey was 21 percent, which was considered very good given the methodology and protocol used. This response rate also reflects the interest the general public has in the subject matter. For the Service's mail-back/internet surveys, the population (licensed anglers being asked about fishing) is much more targeted and engaged than the population for general random household surveys. The potential respondents are already engaged in the activity being surveyed and, based on previous National Park Service (NPS) research that the project team has been involved in, are predisposed to cooperate with the survey effort. For this reason and based on the NPS visitor Socioeconomic Monitoring Program (SEM) mail-back response rates, it is anticipated that response rates for the Service's mail-back/online survey will be 40 percent. Assuming a 40 percent response rate (n=1,200; 400/State) with a completion

¹ Department of the Interior regulations at 43 CFR 11.83 state that trustees may recover the replacement and/or acquisition of equivalent natural resources capable of providing such services (as injured) along with the compensable value of the services lost to the public through the completion of the baseline restoration, rehabilitation, replacement, and/or acquisition of equivalent natural resources.

² The Minnesota survey and associated report were prepared for: Western Transportation Institute, College of Engineering, Montana State University and Nevada Department of Transportation NAS–NRC, for the following larger project: Wildlife Vehicle Collision (WVC) Reduction and Habitat Connectivity Task 1—Cost Effective Solutions Transportation Pooled-Fund Project TPF–5(358) (Administered by: Nevada Department of Transportation).

time of 15 minutes, the mail-back/online survey will result in a total burden of 300 hours.

Title of Collection: Improving Our Understanding of How Trout Anglers Differ in Their Valuations Between Wild and Hatchery Trout.

OMB Control Number: 1018–New.

Form Number: None.

Type of Review: New.

Respondents/Affected Public:

Individuals/households (licensed anglers drawn from three representative U.S. States).

Total Estimated Number of Annual Respondents: 1,200 (400 respondents from 3 States).

Total Estimated Number of Annual Responses: 1,200.

Estimated Completion Time per Response: 15 minutes.

Total Estimated Number of Annual Burden Hours: 300.

Respondent's Obligation: Voluntary.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2024–22271 Filed 9–27–24; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–WI–00058;
PPMPSAS1Y.Y0000; PPWOWMADY0]

Designation of Insignia for the National Park Service, Youth and Young Adult Programs

AGENCY: National Park Service, Interior.

ACTION: Notice of designation.

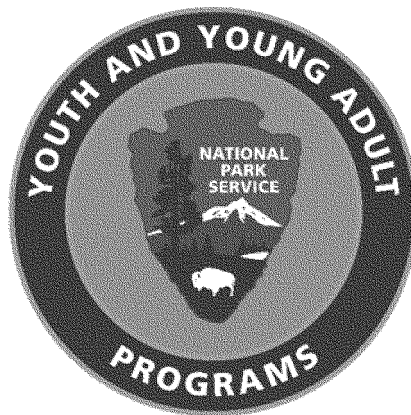
SUMMARY: This notice serves as official designation of the insignia for the National Park Service, Youth and Young Adult programs. This publication accomplishes the official designation of the insignia now in use by the National Park Service.

FOR FURTHER INFORMATION CONTACT:

Jamie Crispin, Youth Programs Division, Workforce and Inclusion Directorate; 1849 C Street NW, Mail Stop: 2353, Washington, DC 20240, Email: Jamie_crispin@nps.gov, Work Cell: 913–727–0766.

SUPPLEMENTARY INFORMATION: For more than five decades, the National Park Service (NPS) has recognized the significance of Youth and Young Adult Programs. These programs encompass a wide range of goals and objectives, both within individual parks and on a broader scale through partnerships with non-profit organizations, businesses, corporations, and various government agencies. The primary focus of these programs is to engage kids, teenagers, young adults up to the age of 30, as well as military veterans 35 years old and younger.

The insignia depicted below has been designated as the official uniform patch and logo for the Youth and Young Adult program. Commencing from September 2024 the National Park Service aims to implement the new insignia. The Director of the National Park Service holds authority over the usage of the insignia.



In making this prescription, notice is hereby given that whoever manufactures, sells, or possesses this insignia, or any colorable imitation thereof, or photographs or prints or in any other manner makes or executes any engraving, photograph or print, or impression in the likeness of this insignia, or any colorable imitation thereof, without written authorization from the United States Department of the Interior is subject to the penalty provisions of 18 U.S.C. 701.

Authority: Protection of Official Badges, Insignia, etc., 18 U.S.C. 701.

Jamie Crispin,

Youth Program Manager, Youth Programs Division, Workforce and Inclusion Directorate.

[FR Doc. 2024–22360 Filed 9–27–24; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–38799;
PPWOCRADIO, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before September 21, 2024, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by October 15, 2024.

ADDRESSES: Comments are encouraged to be submitted electronically to National_Register_Submissions@nps.gov with the subject line “Public Comment on <property or proposed district name, (County) State>.” If you have no access to email, you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, sherry_frear@nps.gov, 202–913–3763.

SUPPLEMENTARY INFORMATION:

The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before September 21, 2024. Pursuant to section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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

Nominations submitted by State or Tribal Historic Preservation Officers

Key: State, County, Property Name, Multiple Name(if applicable), Address/Boundary, City, Vicinity, Reference Number.

CONNECTICUT**New London County**

Cedar Grove Cemetery, 638 Broad Street,
New London, SG100010932

DELAWARE**New Castle County**

Compton Park Apartments, 610–650 N.
Walnut Street, Wilmington, SG100010936

FLORIDA**St. Johns County**

Henry S. O'Brien Estate, 99 Kelley Lane, St.
Augustine, SG100010928

IDAHO**Kootenai County**

Coeur d'Alene Garden District Historic
District, Roughly bounded by N. 11th St.,
Montana Ave., N. 5th St. and Lakeside
Ave., Coeur d'Alene, SG100010923

MARYLAND**Baltimore INDEPENDENT CITY**

Paul Laurence Dunbar School Complex (Civil
Rights in Baltimore, Maryland, 1831–1976
MPS), 500 North Caroline Street and 540
North Caroline Street, Baltimore,
MP100010938

MONTANA**Carbon County**

Regis Grocery, 501 Word Ave. South, Red
Lodge, SG100010934

NEBRASKA**Cass County**

Martin and Catharine Propst Barn, 15006
42nd St., Plattsmouth, SG100010935

NEW JERSEY**Monmouth County**

Laird & Company Distillery Historic District,
1 Laird Road, Scobeyville, Colts Neck
Township, SG100010927

SOUTH DAKOTA**Bon Homme County**

Beseda Hall and Sokol Park, 115 N. Lidice
Street, Tabor, SG100010929

TEXAS**Smith County**

Mayfair Building, 411 Fair Park Drive,
Building B, Tyler, SG100010937

VIRGINIA**Essex County**

DAW Theatre, 152 Prince Street,
Tappahannock, SG100010926

WASHINGTON**Pierce County**

Asberry, Nettie J. and Henry J., House, 1219
South 13th Street, Tacoma, SG100010930

Thurston County

Radio Station KGY, 1700 Marine Drive NE,
Olympia, SG100010925

WISCONSIN**Milwaukee County**

Milwaukee Jewish Home for the Aged, 2436
North 50th Street, Milwaukee,
SG100010931

Authority: Section 60.13 of 36 CFR
part 60.

Sherry A. Frear,

*Chief, National Register of Historic Places/
National Historic Landmarks Program.*

[FR Doc. 2024–22304 Filed 9–27–24; 8:45 am]

BILLING CODE 4312–52–P

**INTERNATIONAL TRADE
COMMISSION**

**[Investigation Nos. 701–TA–706–709 and
731–TA–1667–1672 (Final)]**

**Melamine From Germany, India, Japan,
Netherlands, Qatar, and Trinidad and
Tobago; Scheduling of the Final Phase
of Countervailing Duty and
Antidumping Duty Investigations**

AGENCY: United States International
Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–706–709 and 731–TA–1667–1672 (Final) pursuant to the Tariff Act of 1930 (“the Act”) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of melamine from Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago, provided for in subheading 2933.61.00 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the Department of Commerce (“Commerce”) to be sold at less-than-fair-value and to be subsidized by the governments of Germany, India, Qatar, and Trinidad and Tobago.

DATES: September 24, 2024.

FOR FURTHER INFORMATION CONTACT:

Keysha Martinez (202–205–2136), 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 these investigations may be viewed on the Commission’s electronic docket (EDIS) at <https://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Scope.—For purposes of these investigations, Commerce has defined the subject merchandise as “The merchandise subject to these investigations is melamine (Chemical Abstracts Service (CAS) registry number 108–78–01, molecular formula C₃ H₆ N₆). Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6-triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names. Melamine is a crystalline powder or granule. All melamine is covered by the scope of these investigations irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of these investigations. Melamine that is otherwise subject to these investigations is not excluded when commingled with melamine from sources not subject to these investigations. Only the subject component of such commingled products is covered by the scope of these investigations.”

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by Commerce that certain benefits which constitute subsidies within the meaning of § 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in Germany, India, Qatar, and Trinidad and Tobago of melamine, and that such products from Germany, India, Japan, Netherlands, Qatar, and Trinidad and Tobago are being sold in the United States at less than fair value within the meaning of § 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on February 14, 2024, by Cornerstone Chemical Company, Waggaman, Louisiana.

For further information concerning the conduct of this phase of the investigations, hearing procedures, 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 and C (19 CFR part 207).

Although Commerce has preliminarily determined that imports of melamine from Qatar are not being and are not likely to be sold in the United States at less than fair value, for purposes of efficiency the Commission hereby waives rule 207.21(b)¹ so that the final phase of the investigation may proceed concurrently in the event that Commerce makes a final affirmative determination with respect to such imports.

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, <https://edis.usitc.gov>). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such

access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on November 19, 2024, and a public version will be issued thereafter, pursuant to § 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, December 3, 2024. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before Wednesday, November 27, 2024. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the investigation, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID-19 test result may be submitted by 3pm the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at <https://www.usitc.gov/calendarpad/calendar.html>.

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on Monday, December 2, 2024. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than 4:00 p.m. on Monday, December 2, 2024. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.23 of the Commission's rules; the deadline for filing is November 26, 2024. Parties shall also file written testimony in connection with their presentation at

the hearing, and posthearing briefs, which must conform with the provisions of § 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 10, 2024. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before December 10, 2024. On December 27, 2024, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 31, 2024, but such final comments must not contain new factual information and must otherwise comply with § 207.30 of the Commission's rules. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also 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.

Additional written submissions to the Commission, including requests pursuant to § 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (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.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.21 of the Commission's rules.

By order of the Commission.

Issued: September 24, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024-22252 Filed 9-27-24; 8:45 am]

BILLING CODE 7020-02-P

¹ Section 207.21(b) of the Commission's rules provides that, where Commerce has issued a negative preliminary determination, the Commission will publish a Final Phase Notice of Scheduling upon receipt of an affirmative final determination from Commerce.

DEPARTMENT OF JUSTICE**Office of Justice Programs****[OJP (BJA) Docket No. 1831]****Meeting of the Public Safety Officer Medal of Valor Review Board**

AGENCY: Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA).

ACTION: Notice of meeting.

SUMMARY: This is an announcement of a meeting (via WebEx/conference call-in) of the Public Safety Officer Medal of Valor Review Board to consider nominations for the 2023–2024 Medal of Valor, and to make a limited number of recommendations for submission to the U.S. Attorney General to be cited. Additional issues of importance to the Board may also be discussed.

DATES: November 6, 1 p.m. to 3:30 p.m. EST.

ADDRESSES: This meeting will be held virtually using web conferencing technology. The public may hear the proceedings of this virtual meeting/conference call by registering at last seven (7) days in advance with Gregory Joy (contact information below). All emailed requests to register must include within its Subject line, “MOV Board Meeting—November 6, 2024”.

FOR FURTHER INFORMATION CONTACT: Gregory Joy, Policy Advisor, Bureau of Justice Assistance, Office of Justice Programs, by telephone at (202) 514–1369, or by email at Gregory.joy@usdoj.gov.

SUPPLEMENTARY INFORMATION: The Public Safety Officer Medal of Valor Review Board carries out those advisory functions specified in 42 U.S.C. 15202. Pursuant to 42 U.S.C. 15201, the President of the United States is authorized to award the Public Safety Officer Medal of Valor, the highest national award for valor by a public safety officer.

This virtual meeting/conference call is open to the public to participate remotely. For security purposes, members of the public who wish to participate must register at least seven (7) days in advance of the meeting/conference call by contacting Mr. Joy.

Access to the virtual meeting/conference call will not be allowed without prior registration. Please submit any comments or written statements for consideration by the Review Board in

writing at least seven (7) days in advance of the meeting date.

Gregory Joy,
Policy Advisor/Designated Federal Officer,
Bureau of Justice Assistance.

[FR Doc. 2024–22381 Filed 9–27–24; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE**National Institute of Justice****[OJP (NIJ) Docket No. 1826]****Request for Comment on NIJ Draft Public Access Plan**

AGENCY: National Institute of Justice, Office of Justice Programs, Department of Justice.

ACTION: Notice; request for comments.

SUMMARY: The National Institute of Justice (NIJ) seeks input from all interested stakeholders, including NIJ grantees, criminal justice practitioners, academics, publishers, nonprofits, and the public as it develops a Public Access Plan to increase access to publications and data resulting from NIJ-funded research.

DATES: Individuals wishing to submit comments must do so by 5 p.m. Eastern Time November 29, 2024, as instructed below.

ADDRESSES: You may submit comments by sending electronic mail (Email) to: public.access.nij@usdoj.gov.

FOR FURTHER INFORMATION CONTACT: Gregory Dutton, Physical Scientist, National Institute of Justice, 999 North Capitol St. NE, Washington, DC 20002; telephone number: (202) 532–5612; email address: gregory.dutton@usdoj.gov.

SUPPLEMENTARY INFORMATION: Ensuring broad access to the products of NIJ-sponsored research is critical to achieving our mission to provide evidence, data, and tools to inform criminal and juvenile justice communities, victims services providers, and the public. NIJ is drafting a Public Access Plan to expand timely access to the results of NIJ-funded research and the data underpinning it. Facilitating access to both publications and data without barriers increases transparency and reproducibility. This has the potential to accelerate new discoveries and practical applications and contribute to evidence-based changes in policy and practice, which is all in the public interest. NIJ's Public Access Plan is expected to be implemented for new awards made in Fiscal Year 2025. NIJ intends to include these key requirements:

- That all peer-reviewed publications resulting from NIJ-funded research will be made freely available to the public without delay, by requiring the authors to deposit their manuscripts in a public repository designated by NIJ.

- That the data underlying those publications will be made available at the time of publication.

- That persistent digital identifiers and metadata will be used to facilitate findability and reuse.

Access to Scholarly Publications

The current scientific publishing model places many peer-reviewed journal articles behind paywalls, which can make access inequitable. While large research institutions often have subscriptions or negotiated publisher agreements granting them full access, the general public and many criminal justice practitioners typically do not. One approach authors take to reach broader audiences is to publish their work under “Gold” Open Access. The publisher collects an upfront fee to make the article free to all readers. This cost must be borne by the author, their institution, or the funding agency, putting additional financial strain on institutions and researchers. A second approach is for the author to make their author accepted manuscript—to which they typically retain the rights—available in a public repository. This is referred to as “Green” Open Access. While the manuscript made available under this approach is not the publisher's version of record, it accurately reflects the final peer-reviewed text, except for formatting. Since 2013, large federal science funding agencies (e.g., National Institutes of Health, National Science Foundation, Department of Energy) have required that a version of all peer-reviewed publications be made publicly accessible within 12 months of publication (2013 OSTP Memo). More recently, a call was made for all federally funded peer-reviewed publications and associated data to be made publicly accessible upon publication without delay (2022 OSTP Memo).

NIJ expects its grantees to publish the results of their work in the peer-reviewed literature. But since NIJ was not subject to the 2013 OSTP Memo, our current policy does not mandate public access to these publications. Currently, grantees must notify NIJ of these publications simultaneous with their public release, and they are encouraged—but not required—to index them at the National Criminal Justice Research Service (NCJRS) Virtual Library. This aids discoverability, but

many NIH-funded publications are behind publisher paywalls and inaccessible to many. To expand access, we are drafting a Public Access Plan that will require grantees to deposit their accepted manuscripts under Green Open Access at a public repository.

To facilitate this, NIH plans to use PubMed Central (PMC) as our official repository for grantee publications. This would permit NIH to tap into the digital infrastructure and deep expertise of the National Library of Medicine, a leader in digital library information technology. It would allow for the long-term preservation and availability of NIH peer-reviewed publications, in a machine-readable format, along with their associated metadata, free of charge. PMC provides accessible manuscripts to the extent possible. As used here, accessibility refers to both machine readability, which makes information available for data mining, as well as to the use of assistive devices by people with disabilities. Accessibility can be limited by the completeness of the information submitted by the authors, and NIH aims to maximize the accessibility of grantee submissions (e.g., through the inclusion of alt-text for figures). PMC can accommodate both author accepted manuscripts and publisher versions of record. PMC assigns a unique identifier to each article in addition to collecting digital object identifiers (DOIs) for versions of record when available. Through PMC's application programming interfaces (APIs), NIH can make all our publications in PMC findable via the NCJRS Virtual Library. This would ensure that users can find and access all publications resulting from NIH-funded research (including peer-reviewed publications, grant reports, and other documents published by the grantee or NIH) at a single location.

Data Associated With Scholarly Publications

There is a broad and growing acknowledgement of the importance of sharing datasets that are well-documented and reusable. This serves both to confirm the reproducibility of reported findings and to enable new discoveries. Scientific datasets are increasingly considered primary research products, on par with journal publications. Secondary analysis might yield new conclusions or allow for exploration of new research questions with existing data. Despite these benefits, researchers and institutions may incur additional costs in assembling, storing, and curating these datasets.

NIH requires grantees to archive their full project data at the end of the project period at the National Archive of Criminal Justice Data (NACJD) or an alternate repository appropriate to their field of study (<https://nij.ojp.gov/funding/data-archiving>). The terms of data archiving for each project (e.g., what constitutes the data, where it will be archived) are established in a Data Archiving Plan submitted at the proposal stage. The NIH Data Officer reviews and approves this plan after an award is made and any requested revisions have been incorporated.

To expedite access to research data and consistent with other federal science agencies, NIH now proposes to make public access to the data underlying grantee peer-reviewed publications mandatory at the time of publication. Researchers in some disciplines already routinely provide access to their data as Supplementary Information along with their publications. For others, this may be new. While the default expectation will be for maximum access, this requirement may be waived if the data are subject to disclosure concerns. This could include proprietary information; data pertaining to national security or law enforcement operations; Indigenous data; or data that could lead to a breach of personally identifiable information. As it does now for end-of-project data, NIH will develop processes for requesting waivers for the release of publication data where legitimate disclosure concerns or prohibitions exist. Existing guidelines and award condition language will be revised accordingly.

Persistent Identifiers

A persistent identifier (PID) is a unique identifier for research information (e.g., publications, data, researchers, institutions) that is persistent, machine processable, and follows metadata schema. Greater use of PIDs would allow NIH to use a federated approach whereby research data reside in appropriate repositories and the PID serves as a point of discovery and a means of linking information. This approach allows data assets to be managed by the research communities that create and use them, while simultaneously making them available to other users. However, this relies on third-party repositories ensuring data preservation and access over time, as well as the ongoing engagement of domain-specific expertise for dataset curation within scholarly communities.

Currently, NIH encourages principal investigators (PIs) and co-PIs to provide a researcher PID (e.g., ORCID) at the

time of application. This helps NIH assess applicants' publishing histories as well as track the products of NIH funding into the future. NIH's grant reporting process also encourages researchers to report PIDs for publications and datasets (typically DOIs).

NIH intends to expand its use of PIDs. In line with NSPM-33 specifications, NIH plans to require the NSPM-33 compliant Common Forms (i.e., Biographical Sketch, and Current and Pending (Other) Support), which should include researcher PIDs, with all applications. Additionally, NIH is exploring the assignment of PIDs, via CrossRef, to grant award numbers and final grant reports, as well as NIH-published content such as the NIH Journal.

Questions

Commenters are encouraged to respond to any or all of the following questions. Additional comments relevant to public access are also welcome. The Freedom of Information Act applies to all comments received and may require release of part or all of a comment. NIH anticipates publishing a summary of the comments received. No personally identifying information about the commenters will be included in the summary.

EQUITY

What steps should NIH take to improve equity in access to peer-reviewed publications?

How can NIH ensure equity in publication opportunities for NIH-supported authors?

PUBLICATIONS

What opportunities or benefits do you anticipate you or your institution would realize from a requirement that NIH-funded peer-reviewed publications be made available in a designated repository (e.g., PubMed Central)?

What challenges or barriers do you anticipate facing in complying with a requirement that NIH-funded peer-reviewed publications be made available in a designated repository?

If you are an author, have you published under Gold Open Access? Have you deposited your Author Accepted Manuscripts in a Green Open Access repository? Why or why not?

If you are an author, have you attached use licenses (e.g. Creative Commons) to your publications to clarify the terms of use and reuse by others? Why or why not?

DATA

What opportunities or benefits do you

anticipate you or your institution would realize from a requirement that the data underlying your NIJ-funded peer-reviewed publications be made publicly available?

What challenges or barriers do you anticipate in complying with a requirement that the data underlying your NIJ-funded peer-reviewed publications be made publicly available?

How can NIJ provide broad access to datasets while protecting sensitive personal, proprietary, or national security information?

If you are an author, have you made your publication data available along with your publications? What repositories did you use and why?

PIDs

What should NIJ consider in improving the findability and transparency of its research through PIDs and metadata?

How can NIJ best implement the use of PIDs for people, institutions, and research products?

SOFTWARE

How can NIJ improve the archiving, sharing, and maintenance of NIJ-funded software for reuse?

GENERAL

How can NIJ ensure broad access and accessibility to the outputs of NIJ-funded research?

What are the best practices (from academia, industry, and other stakeholder communities) for managing public access to research results?

What will be the biggest challenges to NIJ implementing a public access policy, and how can these challenges be addressed?

RESPONDENT BACKGROUND

To contextualize your responses, please give any relevant information about your background, including primary field of study, type of institution, career stage, community partnerships (if applicable), and anything else that may impact your relationship to scholarly publications and data.

NIJ publishes this notice pursuant to its authority at 34 U.S.C. 10122(c) and 6 U.S.C. 161–165.

Nancy La Vigne,

Director, National Institute of Justice.

[FR Doc. 2024–22285 Filed 9–27–24; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Innovation and Opportunity Act Native American Employment and Training Council

AGENCY: Employment and Training Administration, U.S. Department of Labor.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (FACA), as amended, and section 166(i)(4) of the Workforce Innovation and Opportunity Act (WIOA), notice is hereby given of the next meeting of the Native American Employment and Training Council (NAETC or Council), as constituted under WIOA.

DATES: The meeting will begin at 1 p.m., (Pacific time) on Tuesday, October 29, 2024, and continue until 5 p.m. (Pacific time). The meeting will reconvene at 10 a.m. (Pacific time), on Wednesday, October 30, 2024, and adjourn at 4 p.m. (Pacific time). The period from 1 p.m. to 2 p.m., on Wednesday, October 30, 2024, is reserved for participation and comment by members of the public.

ADDRESSES: The meeting will be held in person in the at the MGM Grand, 3799 S Las Vegas Blvd., Las Vegas, NV 89109. The meeting will also be accessible virtually. To join the meeting use the following URLs:

October 29, 2024

<https://thegateam.webex.com/thegateam/j.php?MTID=m74feb877bd8079f53609e004154d6e81>
Meeting number: 2340 979 4955
Password: 1005

Join by phone

1–844–992–4726 United States Toll Free
1–408–418–9388 United States Toll

Access code: 2340 979 4955

October 30, 2024

<https://thegateam.webex.com/thegateam/j.php?MTID=med861edd0453fafce35e87ba9e223f19>
Meeting number: 2347 189 3020
Password: 1005

Join by phone

1–844–992–4726 United States Toll Free
1–408–418–9388 United States Toll

Access code: 2347 189 3020

FOR FURTHER INFORMATION CONTACT:

Nathaniel Coley, Designated Federal Officer, Division of Indian and Native American Programs, Employment and Training Administration, U.S. Department of Labor, Room S–4209, 200 Constitution Avenue NW, Washington, DC 20210. Telephone number (202)

693–4287 (VOICE) (this is not a toll-free number) or chief.dinap@dol.gov.

SUPPLEMENTARY INFORMATION:

Council members and members of the public are encouraged to logon to the link provided early to allow for connection issues and troubleshooting.

The meeting will be open to the public. Members of the public not present may submit a written statement by Friday, October 25, 2024, to be included in the record of the meeting. Statements are to be submitted to the U.S. Department of Labor Division of Indian and Native American Programs (DINAP) at DINAP@dol.gov. Persons who need special accommodations should contact Nathaniel Coley at 202–693–4287 or chief.dinap@dol.gov, two business days before the meeting. The formal agenda will focus on the following main topics: (1) Updates from the Employment and Training Administration; (2) NAETC workgroup updates; (3) DINAP updates; and (4) public comment.

José Javier Rodríguez,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2024–22244 Filed 9–27–24; 8:45 am]

BILLING CODE 4510–FR–P

DEPARTMENT OF LABOR

Wage and Hour Division

Minimum Wage for Federal Contracts Covered by Executive Order 13658, Notice of Rate Change in Effect as of January 1, 2025

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Wage and Hour Division (WHD) of the U.S. Department of Labor (the Department) is issuing this notice to announce the applicable minimum wage rate for workers performing work on or in connection with Federal contracts covered by Executive Order 13658, Establishing a Minimum Wage for Contractors (the Executive Order or the order), beginning January 1, 2025. Beginning on that date, the Executive Order 13658 minimum wage rate that generally must be paid to workers performing work on or in connection with covered contracts will increase to \$13.30 per hour, while the required minimum cash wage that generally must be paid to tipped employees performing work on or in connection with covered contracts will increase to \$9.30 per hour. Covered contracts that are entered into on or after January 30, 2022, or that are renewed or extended (pursuant to an

option or otherwise) on or after January 30, 2022, are generally subject to a higher minimum wage rate established by Executive Order 14026 of April 27, 2021, Increasing the Minimum Wage for Federal Contractors.

DATES: These new Executive Order 13658 rates shall take effect on January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Daniel Navarrete, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1-866-487-9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Executive Order 13658 Background and Requirements for Determining Annual Increases to the Minimum Wage Rate

Executive Order 13658 was signed on February 12, 2014, and raised the hourly minimum wage for workers performing work on or in connection with covered Federal contracts to \$10.10 per hour, beginning January 1, 2015, with annual adjustments thereafter in an amount determined by the Secretary pursuant to the order. *See* 79 FR 9851. The Executive Order directed the Secretary to issue regulations to implement the order's requirements. *See* 79 FR 9852. Accordingly, after engaging in notice-and-comment rulemaking, the Department published a final rule on October 7, 2014, to implement the Executive Order. *See* 79 FR 60634. The final regulations, set forth at 29 CFR part 10, established standards and procedures for implementing and enforcing the minimum wage protections of the order.

Executive Order 13658 and its implementing regulations require the Secretary to determine the applicable minimum wage rate for workers performing work on or in connection with covered contracts on an annual basis, beginning January 1, 2016. *See* 79 FR 9851; 29 CFR 10.1(a)(2), 10.5(a)(2), 10.12(a). Sections 2(a) and (b) of the order establish the methodology that the Secretary must use to determine the annual inflation-based increases to the minimum wage rate. *See* 79 FR 9851. These provisions, which are implemented in 29 CFR 10.5(b)(2), explain that the applicable minimum

wage determined by the Secretary for each calendar year shall be:

- Not less than the amount in effect on the date of such determination;
- Increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics (BLS); and
- Rounded to the nearest multiple of \$0.05.

Section 2(b) of Executive Order 13658 further provides that, in calculating the annual percentage increase in the CPI-W for purposes of determining the new minimum wage rate, the Secretary shall compare such CPI-W for the most recent month, quarter, or year available (as selected by the Secretary prior to the first year for which a minimum wage is in effect) with the CPI-W for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively. *See* 79 FR 9851. To calculate the annual percentage increase in the CPI-W, the Department elected in the final rule implementing the Executive Order to compare such CPI-W for the most recent year available with the CPI-W for the preceding year. *See* 29 CFR 10.5(b)(2)(iii). In the final rule, the Department explained that it decided to compare the CPI-W for the most recent year available (instead of using the most recent month or quarter, as allowed by the order) with the CPI-W for the preceding year, "to minimize the impact of seasonal fluctuations on the Executive Order minimum wage rate." 79 FR 60666.

Once a determination has been made with respect to the new minimum wage rate, Executive Order 13658 and its implementing regulations require the Secretary to notify the public of the applicable minimum wage rate on an annual basis at least 90 days before any new minimum wage takes effect. *See* 79 FR 9851; 29 CFR 10.5(a)(2), 10.12(c)(1). The regulations explain that the Administrator of the Department's Wage and Hour Division (the Administrator) will publish an annual notice in the **Federal Register** stating the applicable minimum wage rate at least 90 days before any new minimum wage takes effect. *See* 29 CFR 10.12(c)(2)(i). Additionally, the regulations state that the Administrator will provide notice of the Executive Order minimum wage rate on Wage Determinations OnLine (WDOL), <http://www.wdol.gov>, or any

successor site;¹ on all wage determinations issued under the Davis-Bacon Act (DBA), 40 U.S.C. 3141 *et seq.*, and the Service Contract Act (SCA), 41 U.S.C. 6701 *et seq.*; and by other means the Administrator deems appropriate. *See* 29 CFR 10.12(c)(2)(ii)-(iv).

Section 3 of Executive Order 13658 requires contractors to pay tipped employees covered by the order performing on or in connection with covered contracts an hourly cash wage of at least \$4.90, beginning on January 1, 2015, provided the employees receive sufficient tips to equal the Executive Order minimum wage rate under section 2 of the order when combined with the cash wage. *See* 79 FR 9851-52; 29 CFR 10.28(a). The order further provides that, in each succeeding year, beginning January 1, 2016, the required cash wage must increase by \$0.95 (or a lesser amount if necessary) until it reaches 70 percent of the Executive Order minimum wage. *Id.* For subsequent years, the cash wage for tipped employees will be 70 percent of the Executive Order minimum wage rounded to the nearest \$0.05. *Id.* When a contractor is using a tip credit to meet a portion of its wage obligations under the Executive Order, the amount of tips received by the employee must equal at least the difference between the cash wage paid and the Executive Order minimum wage; if the employee does not receive sufficient tips, the contractor must increase the cash wage paid so that the cash wage in combination with the tips received equals the Executive Order minimum wage. *Id.*

The Executive Order 13658 minimum wage and the cash wage required for tipped employees are currently \$12.90 and \$9.05 per hour, respectively. The Department announced these rates on September 28, 2023, and the rates took effect on January 1, 2024. *See* 88 FR 66903.

II. Effect of Executive Order 14026

On April 27, 2021, President Joseph R. Biden, Jr. signed Executive Order 14026, Increasing the Minimum Wage for Federal Contractors. 86 FR 22835. Executive Order 14026 establishes a higher hourly minimum wage of \$15.00 per hour, beginning on January 30, 2022, and, beginning January 1, 2023, and annually thereafter, an amount determined by the Secretary in accordance with the order. This higher hourly minimum wage applies to the

¹ WDOL.gov has since moved to <https://sam.gov/content/wage-determinations>. This website is the authoritative and single website for obtaining appropriate Service Contract Act and Davis-Bacon Act wage determinations for each official contract action.

same types of contracts with the Federal Government that are covered by Executive Order 13658. However, Executive Order 14026 only applies to contracts with the Federal Government that are entered into on or after January 30, 2022, or that are renewed or extended (pursuant to an exercised option or otherwise) on or after January 30, 2022. For some amount of time, the Department anticipates that there will be some existing contracts with the Federal Government that do not qualify as a covered “new contract” for purposes of Executive Order 14026 and thus will remain subject to the minimum wage requirements of Executive Order 13658.

The Department anticipates that, in the relatively near future, essentially all covered contracts with the Federal Government will qualify as “new” contracts under Executive Order 14026 and be subject to its higher minimum wage rate. Until such time, however, Executive Order 13658 and its regulations at 29 CFR part 10 must remain in place. Accordingly, the Department will continue announcing annual updates to Executive Order 13658’s minimum wage rates for existing contracts still covered by Executive Order 13658.²

III. The 2025 Executive Order 13658 Minimum Wage Rate

Using the methodology set forth in Executive Order 13658 and summarized above, the Department must first determine the annual percentage increase in the CPI-W (United States city average, all items, not seasonally adjusted), as published by BLS, to determine the new Executive Order 13658 minimum wage rate. In calculating the annual percentage increase in the CPI-W, the Department must compare the CPI-W for the most recent year available with the CPI-W for the preceding year. The Department therefore compares the percentage change in the CPI-W between the most

recent year (*i.e.*, the most recent four quarters) and the prior year (*i.e.*, the four quarters preceding the most recent year). The Department then increases the current Executive Order minimum wage rate by the resulting annual percentage change and rounds to the nearest multiple of \$0.05.

To determine the Executive Order 13658 minimum wage rate beginning January 1, 2025, the Department calculated the CPI-W for the most recent year by averaging the CPI-W for the four most recent quarters, which consist of the first two quarters of 2024 and the last two quarters of 2023 (*i.e.*, July 2023 through June 2024). This produced an average index level of 303.729.³ The Department then compared that data to the average CPI-W for the preceding year—294.367—which consists of the first two quarters of 2023 and the last two quarters of 2022 (*i.e.*, July 2022 through June 2023). Based on this methodology, the Department determined that the annual percentage increase in the CPI-W (United States city average, all items, not seasonally adjusted) was 3.180 percent ($(303.729 \div 294.367) - 1$). The Department then applied that annual percentage increase of 3.180 percent to the current Executive Order hourly minimum wage rate of \$12.90, which resulted in a wage rate of \$13.310 ($(\$12.90 \times 0.03180) + \$12.90$). Pursuant to the Executive Order, that rate must be rounded to the nearest multiple of \$0.05.

Accordingly, the new Executive Order 13658 minimum wage rate that must generally be paid to workers performing on or in connection with covered contracts beginning January 1, 2025, is \$13.30 per hour.

IV. The 2025 Executive Order 13658 Minimum Cash Wage for Tipped Employees

As noted above, section 3 of Executive Order 13658 provides a methodology to determine the amount of the minimum

hourly cash wage that must be paid to tipped employees performing on or in connection with covered contracts. Because the cash wage for tipped employees reached 70 percent of the Executive Order 13658 minimum wage beginning on January 1, 2018 (*i.e.*, \$7.25 per hour compared to \$10.35 per hour), future updates to the cash wage for tipped employees must continue to set the rate at 70 percent of the full Executive Order 13658 minimum wage. Seventy percent of the new Executive Order 13658 minimum wage rate of \$13.30 is \$9.31 ($\$13.30 \times 0.70$). Because the Executive Order provides that the rate must be rounded to the nearest \$0.05, the new minimum hourly cash wage for tipped workers performing on or in connection with covered contracts beginning January 1, 2025, is therefore \$9.30 per hour.

V. Appendices

Appendix A to this notice provides a chart of the CPI-W data published by BLS that the Department used to calculate the new Executive Order 13658 minimum wage rate based on the methodology explained herein. A poster reflecting the new Executive Order 13658 minimum wage rate will be publicly available on the WHD website on January 1, 2025.

Jessica Looman,

Administrator, Wage and Hour Division.

Appendix A: Data Used To Determine Executive Order 13658 Minimum Wage Rate

Effective January 1, 2025.

Data Source: Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (United States city average, all items, not seasonally adjusted).

	Quarter 3			Quarter 4			Quarter 1			Quarter 2			Annual average
2022Q3 to 2023Q2	292.219	291.629	291.854	293.003	292.495	291.051	293.565	295.057	296.021	297.730	298.382	299.394	294.367
2023Q3 to 2024Q2	299.899	301.551	302.257	302.071	301.224	300.728	302.201	304.284	306.502	307.811	308.163	308.054	303.729
Annual Percentage Increase ....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3.180%

² Based on an order issued by the U.S. District Court for the Southern District of Texas on September 26, 2023, the minimum wage requirements of the final rule implementing Executive Order 14026 are not currently being enforced as to contracts or subcontracts to which the states of Texas, Louisiana, or Mississippi (including their agencies) are a party. Additionally, due to a pair of orders issued by the U.S. Court of Appeals for the Tenth Circuit, the requirements of

the final rule implementing Executive Order 14026 should not be applied to “contracts or contract-like instruments entered into with the federal government in connection with seasonal recreational services or seasonal recreational equipment rental for the general public on federal lands,” if such contracts were entered into, renewed, or extended between February 17, 2022 and August 16, 2024. The final rule’s requirements remain in effect for all other contracts subject to

Executive Order 14026 and its implementing regulations.

³ In 1988, the reference base for the CPI-W was changed from 1967 = 100 to 1982–84 = 100. The 1982–84 period was chosen to coincide with the updated expenditure weights which were based on the Consumer Expenditure Surveys for the years 1982, 1983, and 1984.

[FR Doc. 2024-22099 Filed 9-27-24; 8:45 am]

BILLING CODE 4510-27-P

DEPARTMENT OF LABOR

Wage and Hour Division

Minimum Wage for Federal Contracts Covered by Executive Order 14026, Notice of Rate Change in Effect as of January 1, 2025

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Wage and Hour Division (WHD) of the U.S. Department of Labor (the Department) is issuing this notice to announce the applicable minimum wage rate for workers performing work on or in connection with Federal contracts covered by Executive Order 14026, Increasing the Minimum Wage for Federal Contractors (the Executive Order or the order). Beginning on January 1, 2025, the Executive Order 14026 minimum wage rate that generally must be paid to workers performing work on or in connection with covered contracts will increase to \$17.75 per hour. This minimum wage rate will apply to non-tipped and tipped employees alike. Contracts similar to those covered by Executive Order 14026 that were entered into, renewed, or extended prior to January 30, 2022, are generally subject to a lower minimum wage rate established by Executive Order 13658 of February 12, 2014, Establishing a Minimum Wage for Contractors.

DATES: The new Executive Order 14026 wage rate shall take effect on January 1, 2025.

FOR FURTHER INFORMATION CONTACT: Daniel Navarrete, Director, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693-0406 (this is not a toll-free number). Alternative formats are available upon request by calling 1-866-487-9243. If you are deaf, hard of hearing, or have a speech disability, please dial 7-1-1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Executive Order 14026 Background and Requirements for Determining Annual Increases to the Minimum Wage Rate

On April 27, 2021, President Joseph R. Biden, Jr. signed Executive Order 14026, “Increasing the Minimum Wage

for Federal Contractors.” 86 FR 22835. In relevant part, Executive Order 14026 raised the hourly minimum wage paid by Federal contractors to workers performing work on or in connection with certain covered Federal contracts to \$15.00 per hour, beginning January 30, 2022, with annual adjustments for inflation thereafter in amounts determined by the Secretary of Labor. *Id.*

Executive Order 14026 directed the Secretary to issue regulations to implement the order’s requirements. *See* 86 FR 22836. Accordingly, after engaging in notice-and-comment rulemaking, the Department published a final rule on November 24, 2021, implementing Executive Order 14026. *See* 86 FR 67126. The final regulations, set forth at 29 CFR part 23, established standards and procedures for implementing and enforcing the minimum wage protections of Executive Order 14026.¹

Executive Order 14026 and its implementing regulations require the Secretary to determine the applicable minimum wage rate for workers performing work on or in connection with covered contracts on an annual basis, beginning January 1, 2023. *See* 86 FR 22835–36; *see also* 29 CFR 23.10(b)(2), 23.50(a)(2), 23.120(a). Sections 2(a) and (b) of Executive Order 14026 establish the methodology that the Secretary must use to determine the annual inflation-based increases to the minimum wage rate. *See* 86 FR 22835–36. These provisions, which are implemented in 29 CFR 23.50(b)(2), explain that the applicable minimum wage determined by the Secretary for each calendar year shall be:

- Not less than the amount in effect on the date of such determination;
- Increased from such amount by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (United States city average, all items, not seasonally adjusted), or its successor publication, as determined by the Bureau of Labor Statistics (BLS); and
- Rounded to the nearest multiple of \$0.05.

Section 2(b) of Executive Order 14026 further provides that, in calculating the

¹ Based on an order issued by the U.S. District Court for the Southern District of Texas on September 26, 2023, the minimum wage requirements of the final rule implementing Executive Order 14026 are not currently being enforced as to contracts or subcontracts to which the states of Texas, Louisiana, or Mississippi (including their agencies) are a party. *See* Final Rule: Increasing the Minimum Wage for Federal Contractors (Executive Order 14026) | U.S. Department of Labor (dol.gov) for further information.

annual percentage increase in the CPI-W for purposes of determining the new minimum wage rate, the Secretary shall compare such CPI-W for the most recent month, quarter, or year available (as selected by the Secretary prior to the first year for which a minimum wage is in effect) with the CPI-W for the same month in the preceding year, the same quarter in the preceding year, or the preceding year, respectively. *See* 86 FR 22835–36. To calculate the annual percentage increase in the CPI-W, the Department elected in its final rule implementing Executive Order 14026 to compare such CPI-W for the most recent year available with the CPI-W for the preceding year. *See* 29 CFR 23.50(b)(2)(iii). Consistent with the regulations implementing Executive Order 13658, *see* 29 CFR 10.5, the Department explained that it decided to compare the CPI-W for the most recent year available (instead of using the most recent month or quarter, as allowed by the order) with the CPI-W for the preceding year, “to minimize the impact of seasonal fluctuations on the Executive order minimum wage rate.” 86 FR 67167.

Once a determination has been made with respect to the new minimum wage rate, Executive Order 14026 and its implementing regulations require the Secretary to notify the public of the applicable minimum wage rate on an annual basis at least 90 days before any new minimum wage takes effect. *See* 86 FR 22835; 29 CFR 23.50(a)(2), 23.120(c)(1). The regulations explain that the Administrator of the Department’s Wage and Hour Division (the Administrator) will publish an annual notice in the **Federal Register** stating the applicable minimum wage rate at least 90 days before any new minimum wage takes effect. *See* 29 CFR 23.120(c)(2)(i). Additionally, the regulations state that the Administrator will provide notice of the Executive Order minimum wage rate on <https://sam.gov/content/wage-determinations>, or any successor site; on all wage determinations issued under the Davis-Bacon Act (DBA), 40 U.S.C. 3141 *et seq.*, and the Service Contract Act (SCA), 41 U.S.C. 6701 *et seq.*; and by other means the Administrator deems appropriate. *See* 29 CFR 23.120(c)(2)(ii)–(iv).

Section 3 of Executive Order 14026 explains the application of the order to tipped workers. 86 FR 22836. It provides that for workers covered by section 2 of the order who are tipped employees pursuant to section 3(t) of the FLSA, 29 U.S.C. 203(t), the cash wage that must be paid by an employer to such workers shall be at least: (i) \$10.50 an hour, beginning on January

30, 2022; (ii) beginning January 1, 2023, 85 percent of the wage in effect under section 2 of the order, rounded to the nearest multiple of \$0.05; and (iii) beginning January 1, 2024, and for each subsequent year, 100 percent of the wage in effect under section 2 of the order. 86 FR 22836. This provision effectively phased out the ability of contractors to claim a “tip credit” under Executive Order 14026, meaning that, since January 1, 2024, contractors subject to the order have not been allowed to pay a lower cash wage to tipped employees.

The Executive Order 14026 minimum wage is currently \$17.20 per hour.² The Department announced this rate on September 28, 2023, and it took effect on January 1, 2024. See 88 FR 66906.

II. The 2025 Executive Order 14026 Minimum Wage Rate

Using the methodology set forth in Executive Order 14026 and summarized above, the Department must first determine the annual percentage increase in the CPI-W (United States city average, all items, not seasonally adjusted), as published by BLS, to determine the new Executive Order 14026 minimum wage rate. In calculating the annual percentage increase in the CPI-W, the Department must compare the CPI-W for the most recent year available with the CPI-W for

the preceding year. The Department therefore compares the percentage change in the CPI-W between the most recent year (*i.e.*, the most recent four quarters) and the prior year (*i.e.*, the four quarters preceding the most recent year). The Department then increases the current Executive Order minimum wage rate by the resulting annual percentage change and rounds to the nearest multiple of \$0.05.

To determine the Executive Order 14026 minimum wage rate beginning January 1, 2025, the Department therefore calculated the CPI-W for the most recent year by averaging the CPI-W for the four most recent quarters, which consist of the first two quarters of 2024 and the last two quarters of 2023 (*i.e.*, July 2023 through June 2024). This produced an average index level of 303.729.³ The Department then compared that data to the average CPI-W for the preceding year—294.367—which consists of the first two quarters of 2023 and the last two quarters of 2022 (*i.e.*, July 2022 through June 2023). Based on this methodology, the Department determined that the annual percentage increase in the CPI-W (United States city average, all items, not seasonally adjusted) was 3.180 percent ($(303.729 \div 294.367) - 1$). The Department then applied that annual percentage increase of 3.180 percent to the current Executive Order 14026

minimum wage (\$17.20 per hour), which resulted in an hourly wage rate of \$17.747 ($(\$17.20 \times 0.03180) + \$17.20$); however, pursuant to Executive Order 14026, the updated minimum wage rate must be rounded to the nearest multiple of \$0.05.

Accordingly, effective January 1, 2025, the new minimum wage rate that must generally be paid to workers performing on or in connection with contracts covered by Executive Order 14026 will be \$17.75 per hour.

III. Appendices

Appendix A to this notice provides a chart of the CPI-W data published by BLS that the Department used to calculate the new Executive Order 14026 minimum wage rate based on the methodology explained herein. A poster reflecting the new Executive Order 14026 minimum wage rate will be publicly available on the WHD website on January 1, 2025.

Jessica Looman,
Administrator, Wage and Hour Division.

Appendix A: Data Used To Determine Executive Order 14026 Minimum Wage Rate

Effective January 1, 2025.

Data Source: Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) (United States city average, all items, not seasonally adjusted).

	Quarter 3			Quarter 4			Quarter 1			Quarter 2			Annual average
2022Q3 to 2023Q2 2023Q3 to 2024Q2	292.219 299.899	291.629 301.551	291.854 302.257	293.003 302.071	292.495 301.224	291.051 300.728	293.565 302.201	295.057 304.284	296.021 306.502	297.730 307.811	298.382 308.163	299.394 308.054	294.367 303.729
Annual Percent- age Increase ....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	3.180%

[FR Doc. 2024–22100 Filed 9–27–24; 8:45 am]

BILLING CODE 4510–27–P

LEGAL SERVICES CORPORATION

Sunshine Act Meetings

TIME AND DATE: The Delivery of Legal Services, Communications Subcommittee of the Institutional Advancement Committee, Operations and Regulations, Governance and Performance Review, and Institutional Advancement Committees of the Legal Services Corporation Board of Directors will meet virtually on October 7,

October 8, and October 15, 2024. On October 7, the Delivery of Legal Services Committee meeting will begin at 2:30 p.m. ET and will continue until the conclusion of the Committee’s agenda. The Communications Subcommittee meeting will begin at 3:30 p.m. ET and will continue until the conclusion of the Committee’s agenda. The Operations and Regulations Committee meeting will begin at 4:00 p.m. ET and will continue until the conclusion of the Committee’s agenda. On October 8, the Governance and Performance Review Committee meeting will begin at 10:30 a.m. ET and will continue until the conclusion of the Committee’s agenda.

On October 15, the Institutional Advancement Committee meeting will begin at 10:00 a.m. ET and will continue until the conclusion of the Committee’s agenda.

PLACE:

Public Notice of Virtual Meeting: LSC will conduct the October 7, October 8, and October 15, 2024, meetings via Zoom.

Public Observation: Unless otherwise noted herein, the Delivery of Legal Services, Communications Subcommittee, Operations and Regulations, Governance and Performance Review, and Institutional Advancement Committees meeting will

² Contracts of the same kind as are covered by Executive Order 14026 and that were entered into, renewed, or extended prior to January 30, 2022, are generally subject to Executive Order 13658 and its lower minimum wage requirements. The Executive

Order 13658 minimum wage and the cash wage required for tipped employees are currently \$13.30 and \$9.30 per hour, respectively. See 88 FR 66903.

³ In 1988, the reference base for the CPI-W was changed from 1967 = 100 to 1982–84 = 100. The

1982–84 period was chosen to coincide with the updated expenditure weights which were based on the Consumer Expenditure Surveys for the years 1982, 1983 and 1984.

be open to public observation via Zoom. Members of the public who wish to participate remotely in the public proceedings may do so by following the directions provided below.

Directions for Open Sessions

Monday, October 7, 2024

• To join the Zoom meeting by computer, please use this link: <https://lsc-gov.zoom.us/j/85004691782?pwd=dx4BrVhbSCjsauDNZzK263SSJhXsVX.1&from=addon>.

○ Meeting ID: 850 0469 1782

○ Passcode: 629262

• To join the Zoom meeting with one tap from your mobile phone, please click dial:

○ +13017158592,,88527065662# US (Washington DC)

○ +16468769923,,88527065662# US (New York)

• To join the Zoom meeting by telephone, please dial one of the following numbers:

○ +1 301 715 8592 US (Washington, DC)

○ +1 646 876 9923 US (New York)

○ +1 312 626 6799 US (Chicago)

○ +1 346 248 7799 US (Houston)

○ +1 408 638 0968 US (San Jose)

○ +1 669 900 6833 US (San Jose)

○ +1 253 215 8782 US (Tacoma)

○ ID: 850 0469 1782

○ Passcode: 629262

Tuesday, October 8, 2024

• To join the Zoom meeting by computer, please use this link: <https://lsc-gov.zoom.us/j/83096212785?pwd=2TrQb2FEQXYRoL1wo7crxRoEwJjGiX.1&from=addon>.

○ Meeting ID: 830 9621 2785

○ Passcode: 573819

• To join the Zoom meeting with one tap from your mobile phone, please click dial:

○ +13017158592,,88527065662# US (Washington DC)

○ +16468769923,,88527065662# US (New York)

• To join the Zoom meeting by telephone, please dial one of the following numbers:

○ +1 301 715 8592 US (Washington, DC)

○ +1 646 876 9923 US (New York)

○ +1 312 626 6799 US (Chicago)

○ +1 346 248 7799 US (Houston)

○ +1 408 638 0968 US (San Jose)

○ +1 669 900 6833 US (San Jose)

○ +1 253 215 8782 US (Tacoma)

○ ID: 830 9621 2785

○ Passcode: 573819

Tuesday, October 15, 2024

• To join the Zoom meeting by computer, please use this link: <https://lsc-gov.zoom.us/j/86374138697?pwd=XRNgukkkOmfpS3wP5OMp24vwt76uF.1&from=addon>.

○ Meeting ID: 863 7413 8697

○ Passcode: 977809

• To join the Zoom meeting with one tap from your mobile phone, please click dial:

○ +13017158592,,88527065662# US (Washington DC)

○ +16468769923,,88527065662# US (New York)

• To join the Zoom meeting by telephone, please dial one of the following numbers:

○ +1 301 715 8592 US (Washington, DC)

○ +1 646 876 9923 US (New York)

○ +1 312 626 6799 US (Chicago)

○ +1 346 248 7799 US (Houston)

○ +1 408 638 0968 US (San Jose)

○ +1 669 900 6833 US (San Jose)

○ +1 253 215 8782 US (Tacoma)

○ ID: 863 7413 8697

○ Passcode: 977809

Once connected to Zoom, please immediately mute your computer or telephone. Members of the public are asked to keep their computers or telephones muted to eliminate background noise. To avoid disrupting the meetings, please refrain from placing the call on hold if doing so will trigger recorded music or other sound.

From time to time, the Committee Chairs may solicit comments from the public. To participate in the meeting during public comment, use the 'raise your hand' or 'chat' functions in Zoom and wait to be recognized by the Chair before stating your questions and/or comments.

MATTERS TO BE CONSIDERED:

Meeting Schedule

Monday, October 7, 2024

Start Time: 2:30 p.m. ET

Delivery of Legal Services Committee

Open to the Public

1. Approval of Agenda
2. Approval of Minutes of the Committee's Open Session Meeting on July 23, 2024
3. LSC Performance Criteria Revisions Update
4. Office of Training and Technical Assistance Update
5. Years of Service Project Update
6. Comments from Client Leadership Council
7. Public Comment
8. Consider and Act on Other Business
9. Consider and Act on a Motion to Adjourn the Meeting

Monday, October 7, 2024

Start Time: 3:30 p.m. ET

Communications Subcommittee

Open to the Public

1. Approval of Agenda
2. Approval of Minutes of the Subcommittee's Open Session Meeting on July 24, 2024
3. Communications and Social Media Update
4. Update on Dynamic Strategic Communication Plan for 2025
5. Public Comment
6. Consider and Act on Other Business
7. Consider and Act on Motion to Adjourn the Meeting

Monday, October 7, 2024

Start Time: 4:00 p.m. ET

Operations and Regulations Committee

Open to the Public

1. Approval of agenda
2. Approval of minutes of the Committee's Open Session meeting on July 24, 2024
3. Report on Action Memo for 45 CFR Parts 1621—Client Grievance Procedures and 1624—Prohibition Against Discrimination on the Basis of Disability
4. Public comment
5. Consider and act on other business
6. Consider and act on adjournment of meeting

Tuesday, October 8, 2024

Start Time: 10:30 a.m. ET

Governance and Performance Review Committee

Open to the Public

1. Approval of Agenda
2. Approval of Minutes of the Committee's Meeting on June 27, 2024
3. Report on U.S. Department of Justice's Access to Justice Office and White House Legal Aid Interagency Roundtable (LAIR)
4. Update on White House Transition Plans
5. Preview of Annual Board and Committee Evaluation Process
6. Public Comment
7. Consider and Act on Other Business
8. Consider and Act on Motion to Adjourn the Committee Meeting

Tuesday, October 15, 2024

Start Time: 10:00 a.m. ET

Institutional Advancement Committee

Open to the Public

1. Approval of Agenda
2. Approval of Minutes of the Institutional Advancement

- Committee's Open Session Meeting on July 11, 2024
3. Update on Leaders Council and Emerging Leaders Council
 4. Development Report
 5. Public Comment
 6. Consider and Act on Other Business
 7. Consider and Act on Motion to Adjourn the Open Session Meeting and Proceed to a Closed Session

Closed Session

8. Approval of Minutes of the Institutional Advancement Committee's Closed Session Meeting on July 11, 2024
9. Development Report
10. Consider and Act on Motion to Approve Leaders Council and Emerging Leaders Council Invitees
11. Consider and Act on Other Business
12. Consider and Act on Motion to Adjourn the Meeting

CONTACT PERSON FOR MORE INFORMATION:

Cheryl DuHart, Administrative Coordinator, at (202) 295-1621. Questions may also be sent by electronic mail to duhartc@lsc.gov.

Non-Confidential Meeting Materials: Non-confidential meeting materials will be made available in electronic format at least 24 hours in advance of the meeting on the LSC website, at <https://www.lsc.gov/about-lsc/board-meeting-materials>.

(Authority: 5 U.S.C. 552b).

Dated: September 26, 2024.

Stefanie Davis,

Deputy General Counsel, Legal Services Corporation.

[FR Doc. 2024-22533 Filed 9-26-24; 4:15 pm]

BILLING CODE 7050-01-P

OFFICE OF MANAGEMENT AND BUDGET

Notice of Training Session: Effective Participation in Executive Order 12866 Meetings With the Office of Information and Regulatory Affairs (With Live Translation in Spanish, Mandarin Chinese, and ASL Interpretation)

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of training session.

SUMMARY: Interested members of the public may request a meeting with the Office of Information and Regulatory Affairs (OIRA) to present their views about a regulatory action that is under OIRA review. These meetings, known as E.O. 12866 meetings, serve as listening sessions for OIRA officials and representatives from the agency or

agencies taking the regulatory action. To assist members of the public seeking to request an E.O. 12866 meeting, OIRA has modified its website and posted an instructional video (in English and Spanish) and a step-by-step guide to requesting a meeting on its website. Moreover, to encourage participation by those who have not historically requested E.O. 12866 meetings, including those from underserved communities, OIRA will offer periodic and accessible trainings on effective participation in E.O. 12866 meetings. OIRA has recently held three training sessions on E.O. 12866 meeting participation, including one training session conducted entirely in Spanish to assist Spanish-speaking members of the public who may wish to request an E.O. 12866 meeting in the future. OIRA is offering another training session on E.O. 12866 meeting participation next month. This training session will have live audio translation in Spanish and Mandarin Chinese, in addition to ASL interpretation and English captioning.

DATES: The training session will be held on October 2, 2024, at 3 to 3:45 p.m., eastern time.

ADDRESSES: Information to access the virtual training sessions will be provided upon registration. Members of the public may register by sending an email to publicparticipation@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT:

Please email the Office of Management and Budget at publicparticipation@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Executive Order 12866 establishes and governs the process under which OIRA reviews agencies' significant regulatory actions. E.O. 12866 provides that members of the public may meet with OIRA during OIRA's review of draft proposed and final rules. These meetings, known as E.O. 12866 meetings, offer an opportunity for members of the public to present their views on regulatory actions under review. OIRA invites representatives from the agency or agencies taking the regulatory action to these meetings, though participation may be limited by scheduling or other considerations. E.O. 12866 meetings serve as listening sessions for OIRA and agency representatives, and both the identity of meeting attendees and any written materials provided by the meeting requestors are disclosed on OIRA's website.

In an effort to facilitate meeting requests, OIRA has modified its website to simplify the request form and to provide several avenues through which

outside parties can request meetings.¹ In addition, OIRA has provided detailed written step-by-step instructions in English and Spanish,² as well as a video (also translated into Spanish),³ on its website, [RegInfo.gov](https://www.reginfo.gov), on how to schedule a meeting. To facilitate broader participation in E.O. 12866 meetings, including by requestors who have not historically requested such meetings or face challenges in traveling to Washington, DC, OIRA holds E.O. 12866 meetings virtually, primarily as teleconferences.

To encourage participation by members of the public who have not historically requested E.O. 12866 meetings, including members of underserved communities, OIRA will offer periodic and accessible trainings on effective participation in E.O. 12866 meetings. OIRA recently held three training sessions. OIRA will be hosting another training session on October 2, 2024, at 3 to 3:45 p.m., eastern time. This training session will have live audio translation in Spanish and Mandarin Chinese, in addition to ASL interpretation and English captioning. At the training session, OIRA will describe (1) what an E.O. 12866 meeting is; (2) how members of the public may request and schedule a meeting; (3) the format of E.O. 12866 meetings; (4) what type of information or input is most helpful to receive during an E.O. 12866 meeting; and (5) what makes for an effective presentation during an E.O. 12866 meeting.

Richard L. Revesz,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2024-22254 Filed 9-27-24; 8:45 am]

BILLING CODE 3110-01-P

¹ <https://www.reginfo.gov/public/do/eo/neweomeeting>.

² <https://www.reginfo.gov/public/jsp/Utilities/E.O.-12866-Video-Transcript-english.pdf> (in English); and <https://www.reginfo.gov/public/jsp/Utilities/E.O.-12866-Video-Transcript-spanish.pdf> (in Spanish).

³ <https://www.youtube.com/watch?v=1zxsAFsgJ3I> (in English) and <https://www.youtube.com/watch?v=9dRt4XxZ78c> (in Spanish).

OFFICE OF MANAGEMENT AND BUDGET

Notice of Training Session: Effective Public Participation in the Public Comment Process With the Office of Information and Regulatory Affairs (With Live Translation in Spanish, Mandarin Chinese, and ASL Interpretation)

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of training sessions.

SUMMARY: The notice-and-comment Federal rulemaking process allows any member of the public to submit a comment on an agency's proposed rule, and in developing any final rule the agency generally must respond to relevant and significant public comments. As part of its efforts to strengthen public engagement in the Federal regulatory process, the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB) is offering a training session on effective public participation in the public comment process. OIRA recently held two training sessions on effective public participation in the public comment process. Next month, OIRA is offering another training session. This training session will have live audio translation in Spanish and Mandarin Chinese, in addition to ASL interpretation and English captioning.

DATES: The training session will be held on October 9, 2024, at 4 to 4:45 p.m., eastern time.

ADDRESSES: Information to access the virtual training session will be provided upon registration. Members of the public may register by sending an email to publicparticipation@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Please email the Office of Management and Budget at publicparticipation@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Notice-and-comment rulemaking generally affords any interested individual or organization the opportunity to provide written input on a Federal agency's proposed rule. Agencies, in turn, are generally required to review these comments as they consider how best to finalize their regulatory proposals, and to respond to relevant and significant public comments in any subsequent final rule.

Interested members of the public who wish to comment, however, may not always be aware of the most effective way of participating in the notice-and-comment process. In public comments

and listening sessions held prior to the release of OIRA's Memorandum, *Broadening Public Participation and Community Engagement in the Regulatory Process*, members of the public noted challenges they face in seeking to participate in the notice-and-comment process.¹ For example, interested members of the public may lack clarity on how to write effective comments on proposed rules; what experiences, data, or information would be most helpful to provide in comments; or how to submit a public comment.

In response to feedback received from the public and as part of its ongoing efforts to strengthen public participation in the regulatory process, OIRA recently held two training sessions on effective participation in the public comment process. OIRA is offering another training session on October 9, 2024, at 4 to 4:45 p.m., eastern time. This training session will have live audio translation in Spanish and Mandarin Chinese, in addition to ASL interpretation and English captioning. At this training session, OIRA will describe (1) opportunities to provide comment in the Federal regulatory process; (2) how to submit public comments; and (3) how to draft effective public comments. Members of the public may register by sending an email to publicparticipation@omb.eop.gov.

Richard L. Revesz,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 2024-22250 Filed 9-27-24; 8:45 am]

BILLING CODE 3110-01-P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 24-08]

Renewal of the MCC Economic Advisory Council and Call for Nominations

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory Committee Act, the Millennium Challenge Corporation ("MCC") has renewed the charter for the MCC Economic Advisory Council ("EAC") and is hereby soliciting representative

nominations for the 2024–2026 term. The EAC serves MCC in an advisory capacity only and provides insight to sharpen MCC's analytical capacity and ensure continued expertise on relevant issues related to economic development. The EAC provides a platform for engagement with economic development and evaluation experts and contributes to MCC's mission to reduce poverty through sustainable and inclusive economic growth. MCC will use the advice, recommendations, and guidance from the EAC to inform threshold program, compact, and concurrent regional compact development, implementation, and results measurement procedures; and assess future policy innovations and methodologies at MCC. The MCC Vice President of the Department of Policy and Evaluation affirms that the EAC is necessary and in the public interest. The EAC is seeking members to comprise a diverse group of recognized thought leaders and experts representing academic institutions, think tanks, donor organizations, and development banks. Additional information about MCC and its portfolio can be found at www.mcc.gov.

DATES: Nominations for EAC members must be received on or before 5:00 p.m. EDT on November 25, 2024. Further information about the nomination process is included below. MCC plans to host the first meeting of the 2024–2026 term of the EAC in early 2025. The EAC will meet at least two times a year in Washington, DC, or via video/teleconferencing. Members who are unable to attend in-person meetings may have the option to participate via video/teleconferencing.

FOR FURTHER INFORMATION CONTACT: Nominators are asked to send all nomination materials by email to MCCEACouncil@mcc.gov. While email is strongly preferred, nominators may send nomination materials by mail to Millennium Challenge Corporation, Attn: Mesbah Motamed, Designated Federal Officer, MCC Economic Advisory Council, 1099 14th St. NW, Suite 700, Washington, DC 20005. Request for additional information can also be directed to Mesbah Motamed, (202) 521-7874, MCCEACouncil@mcc.gov.

SUPPLEMENTARY INFORMATION: The EAC consists of not more than twenty-five (25) individuals who are recognized experts in their field, academics, innovators, and thought leaders representing academic organizations, independent think tanks, international development agencies, multilateral and regional development financial

¹ OIRA Memorandum, *Broadening Public Participation and Community Engagement in the Regulatory Process* 6–7 (Jul. 19, 2023), available at <https://www.whitehouse.gov/wp-content/uploads/2023/07/Broadening-Public-Participation-and-Community-Engagement-in-the-Regulatory-Process.pdf>.

institutions, and foundations. Efforts will be made to include expertise from countries and regions where MCC operates, within the resource constraints of MCC to support logistic costs. Qualified individuals may self-nominate or be nominated by any individual or organization. To be considered for the EAC, nominators should submit the following information:

- Name, title, organization (if applicable), and relevant contact information (including phone, mailing address, and email address) of the individual being nominated;
- A letter containing a brief biography for the nominee and description of why the nominee should be considered for membership; and
- CV including professional and academic credentials.

Please do not send company or organization brochures or any other information. Materials submitted should not exceed two pages, excluding CV. If MCC needs more information, MCC staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources.

All members of the EAC will be independent of MCC, representing the views and interests of their respective institution or area of expertise and not serving as special government employees. All members will serve without compensation. The duties of the EAC are solely advisory and any determinations to be made or actions to be taken on the basis of EAC advice will be made or taken by appropriate officers of MCC.

A selection team will review the nomination packages and make recommendations regarding membership to the MCC Vice President of the Department of Policy and Evaluation (or the person acting in such capacity) based on criteria including: (1) professional experience and knowledge; (2) academic field and expertise; (3) experience within regions in which MCC works; (4) contribution of diverse regional or technical professional perspectives; and (5) availability and willingness to serve. Based upon the selection team's recommendations, the MCC Vice President of the Department of Policy and Evaluation (or the person acting in such capacity) will select representatives.

In the selection of members for the EAC, MCC will seek to ensure a balanced representation and consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the EAC. Nominees selected for appointment to

the EAC will be notified by email and receive a letter of appointment.

Nominations are open to all individuals without regard to race, color, religion, sex, gender, national origin, age, mental or physical disability, marital status, sexual orientation, or location.

(Authority: Federal Advisory Committee Act, as amended, 5 U.S.C. chapter 10.)

Dated: September 20, 2024.

Peter E. Jaffe,

Vice President, General Counsel, and Corporate Secretary.

[FR Doc. 2024-22372 Filed 9-27-24; 8:45 am]

BILLING CODE 9211-03-P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: 24-067]

NASA Biological and Physical Sciences Advisory Committee

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the National Aeronautics and Space Administration (NASA) announces a meeting of the Biological and Physical Sciences Advisory Committee.

DATES: Friday, November 22, 2024, 10 a.m.–5 p.m. All times are eastern time.

ADDRESSES: Public attendance will be virtual only. See dial-in and Webinar information below under

SUPPLEMENTARY INFORMATION.

FOR FURTHER INFORMATION CONTACT:

Michael Robinson, Designated Federal Officer, Biological and Physical Sciences Advisory Committee, NASA Headquarters, Washington, DC 20546, via email at michael.p.robinson@nasa.gov or (202) 669-0096.

SUPPLEMENTARY INFORMATION: As noted above, this meeting will be open to the public via Webinar and telephonically. Webinar connectivity information is provided below. For audio, when you join the Webinar event, you may use your computer or provide your phone number to receive a call back, otherwise, call the U.S. toll conference number listed.

On November 22nd, the event address for attendees is: webinar web link <https://nasaevents.webex.com/nasaevents/j.php?MTID=m159a50d393047a899660ed04853457c1>.

The webinar number is 2822 987 6431 and the webinar password is 98SHhR35YnQ (98744735 when dialing

from a phone or video system). If needed, the U.S. toll conference number is 1-312-500-3161 or 1-415-527-5035 and access code is 282 298 76431 and password is 98744735.

The agenda for the meeting includes the following topics:

—Decadal Survey Update

—Updates on Space Biology, Physical Sciences, and Fundamental Physics

It is imperative that these meeting be held on these days to accommodate the scheduling priorities of the key participants.

For more information, please visit <https://science.nasa.gov/researchers/nac/science-advisory-committees/bpac/>.

Jamie M. Krauk,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2024-22289 Filed 9-27-24; 8:45 am]

BILLING CODE 7510-13-P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Request: National Museum Survey

AGENCY: Institute of Museum and Library Services, National Foundation on the Arts and the Humanities.

ACTION: Submission for OMB Review, request for comments.

SUMMARY: The Institute of Museum and Library Services (IMLS) announces that the following information collection request has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. This annual survey will collect statistically valid data on the U.S. museum sector, which does not currently exist. The data will describe the scope, scale and nature of museums' presence and reach within the U.S. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments about this assessment process, instructions, and data collections. This is the second notice for public comment. A copy of the proposed information collection request can be obtained by contacting

the individual listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments on this notice must be submitted to the office listed in the **ADDRESSES** section below on or before October 30, 2024.

OMB is particularly interested in comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice www.reginfo.gov/public/do/PRAMain. Find this particular information collection request by selecting "Institute of Museum and Library Services" under "Currently Under Review;" then check "Only Show ICR for Public Comment" checkbox. Once you have found this information collection request, select "Comment," and enter or upload your comment and information. Alternatively, please mail your written comments to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503, or call (202) 395-7316.

FOR FURTHER INFORMATION CONTACT: Jake Soffronoff, Survey Methodologist, Office of Research and Evaluation, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024-2135. Mr. Soffronoff can be reached by telephone at 202-653-4648, or by email at jsoffronoff@imls.gov. Persons who are deaf or hard of hearing (TTY users) may contact IMLS at 202-207-7858 via 711 for TTY-Based Telecommunications Relay Service.

SUPPLEMENTARY INFORMATION: IMLS is the primary source of federal support for

the nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit www.imls.gov.

Current Actions: This Notice proposes the clearance of a new information collection—the National Museum Survey (NMS). As noted in the 60-day notice, IMLS will be conducting a voluntary survey of museums that aims to capture the scope and scale of museums' presence and reach within the United States over time. This annual survey will collect statistically valid data on the U.S. museum sector, which does not currently exist. The data will describe the scope, scale and nature of museums' presence and reach within the U.S. NMS data will be useful to museum practitioners, policymakers at the federal, state, and local levels, the public, researchers, and journalists, and will be used for planning, research, evaluation, and policymaking.

The 60-day Notice was published in the **Federal Register** on April 30, 2024 [89 FR 34277 (Document Number 2024-09276)]. We received one comment under this Notice. That comment came from a representative of the American Library Association who wanted to ensure that museums located within libraries were included in, and eligible for, the NMS. The representative subsequently provided a list of such institutions for IMLS to cross-reference against the agency's list of museums to whom the NMS will be administered. Any such institutions that were not already included were added to IMLS' list.

Agency: Institute of Museum and Library Services.

Title: National Museum Survey.

OMB Control Number: 3137-NEW.

Agency Number: 3137.

Respondents/Affected Public: IMLS plans to conduct a census of all eligible U.S. museums representing a broad range of museum disciplines, including zoos, aquariums, botanical gardens, and arboretums; nature and science centers; history museums and historic sites; art museums; children's museums; natural history museums; and general and specialized museums.

Institutions must meet all the following criteria to be eligible for selection:

- Be a unit of federal, state, local, or tribal government, or a not-for-profit institution.
- Serve the public in a physical location it owns or operates.
- Provide exhibitions and programs.

- Primarily function to house, display, and care for animate or inanimate objects that form the core of its exhibitions, programs, and research.

- Under normal circumstances, be open to the public 90 days or more per year, either through specific hours of operation or by appointment.

- Have at least one staff member, or the full-time equivalent, whether paid or unpaid.

IMLS will request that a senior administrator at each institution be responsible for the completion of the survey at their institution.

Total Estimated Number of Annual Respondents: The survey's expected response rate is 35 percent, leading to approximately 7,500 completed cases.

Frequency of Response: Once per request.

Average Minutes per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 7,500.

Total Annualized Capital/Startup Costs: n/a.

Total Annual Cost Burden (dollars): \$431,718.75 (7,500 hrs × \$57.56/hr). \$57.56 represents a simple average of hourly mean wage figures for government, academic, and company/enterprise managers (<https://www.bls.gov/oes/current/oes113012.htm>).

Total Annual Federal Costs: \$323,533.21.

Dated: September 24, 2024.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2024-22257 Filed 9-27-24; 8:45 am]

BILLING CODE 7036-01-P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act in the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit

application by October 30, 2024. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314 or ACApermits@nsf.gov.

FOR FURTHER INFORMATION CONTACT: Andrew Titmus, ACA Permit Officer, at the above address, 703-292-4479.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541, 45 CFR 670), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

Permit Application: 2025-014

1. *Applicant:* Dale Andersen, Carl Sagan Center, SETI Institute, 339 Bernardo Ave., Ste. 200, Mountain View, CA 94043.

Activity for Which Permit is Requested: Harmful Interference. The applicant requests an ACA permit for the disturbance of up to 10 nesting pairs of Snow Petrels (*Pagodroma nivea*) in association with activities associated with collections of sub-fossilized stomach-oil deposits. The deposits are used by geologists to date ice-sheet thinning, seabird occupation history, and sea ice changes. The applicant proposes to collect 2 deposits, which may result in the disturbance of 5-10 pairs of Snow Petrels.

Location: Untersee, Antarctica.

Dates of Permitted Activities: 15 October, 2024-15 December, 2024.

Permit Application: 2025-015

2. *Applicant:* Sarah Ruth, National Science Foundation, Office of Polar Programs, 2415 Eisenhower Ave., Alexandria, VA 22314.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area. The applicant seeks an Antarctic Conservation Act permit authorizing entry into Antarctic Specially Protected Areas (ASPAs) in association with oversight and management of U.S. Antarctic Program science projects. The applicant proposes to enter specific ASPAs as needed to

conduct site visits of various U.S. science teams working in those ASPAs. The applicant proposes to enter ASPAs on an as needed basis and would be accompanied within the ASPA at all times by the science project participants conducting work in that ASPA. No visits to ASPAs would occur if there is no U.S. Antarctic Program science project active in that ASPA.

Location: ASPA 106—Cape Hallett, Northern Victoria Land, Ross Sea; ASPA 113—Litchfield Island, Arthur Harbor, Anvers Island; ASPA 116—New College Valley; ASPA 121—Cape Royds, Ross Island; ASPA 124—Cape Crozier, Ross Island; ASPA 128—Western Shore of Admiralty Bay, King George Island; ASPA 131—Canada Glacier, Lake Fryxell, Taylor Valley; ASPA 137—Northwest White Island; ASPA 139—Biscoe Point, Anvers Island; ASPA 149—Cape Shirreff and San Telmo Island, Livingston Island, South Shetland Islands; ASPA 155—Cape Evans, Ross Island; ASPA 172—Lower Taylor Glacier and Blood Falls, McMurdo Dry Valleys, Victoria Land; ASPA 173—Cape Washington and Silverfish Bay, Terra Nova Bay, Ross Sea; ASPA 176—Rosenthal Islands, Anvers Island.

Dates of Permitted Activities: October 15, 2024–March 31, 2025.

Alina Pavao,

Administrative Assistant, Office of Polar Programs.

[FR Doc. 2024-22287 Filed 9-27-24; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board hereby gives notice of the scheduling of a teleconference of the National Science Board/National Science Foundation Commission on Merit Review (MRX) for the transaction of National Science Board business pursuant to the NSF Act and the Government in the Sunshine Act.

TIME AND DATE: The MRX meeting is scheduled for Thursday, October 3, 2024, from 3:00 p.m.–5:00 p.m. EDT.

PLACE: This meeting will be via videoconference through the National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda is: Commission Chair's remarks about the agenda; Discussion of Preliminary Implementation Suggestions; Vote for Approval of Preliminary

Implementation Suggestions; and Commission Chair's closing remarks.

CONTACT PERSON FOR MORE INFORMATION:

Point of contact for this meeting is: Chris Blair, cblair@nsf.gov, 703/292-7000. Meeting information and updates may be found at www.nsf.gov/nsb.

Christopher Blair,

Executive Assistant to the National Science Board Office.

[FR Doc. 2024-22557 Filed 9-26-24; 4:15 pm]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Advisory Committee for Mathematical and Physical Sciences (#66).

Date and Time: October 31, 2024: 10:00 a.m. to 5:10 p.m.; November 1, 2024: 9:20 a.m. to 2:00 p.m.

Place: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314/Hybrid participation for AC Members, Presenters, Visitors, and Guests.

To attend the meeting of the Advisory Committee (AC) for Mathematical and Physical Sciences Directorate (MPS) in person, all visitors must contact the Directorate for Mathematical and Physical Sciences at least 48 hours prior to the meeting to arrange for a visitor's badge. Visitors must access NSF via the Visitor Center entry adjacent to the south building entrance on Eisenhower Avenue on the day of the meeting to pick up the visitor's badge. It is suggested that visitors allow time to pass through security screening.

To attend virtually, please use the link provided on the MPS AC website located at <http://www.nsf.gov/mps/advisory.jsp>.

Type of Meeting: Open.

Contact Person: Catalina Achim, National Science Foundation, 2415 Eisenhower Avenue, Room E9335, Alexandria, Virginia 22314; Telephone: 703-292-2048.

Meeting Information: <http://www.nsf.gov/mps/advisory.jsp>.

Purpose of Meeting: To provide advice, recommendations, and counsel on major goals and policies pertaining to MPS programs and activities.

Agenda*Thursday, October 31, 2024*

- Call to Order and Official Opening of the Meeting
- Approval of Minutes of the March 2024 MPS Meeting
- MPS Directorate Update
- Research Security
- CHIPS and Science Act requirement for NSF Investment in EPSCOR Jurisdictions
- Science Highlight
- The Report of the Committee of Visitors for the Division of Mathematical Sciences
- NSF Artificial Intelligence Institutes with MPS Participation
- Broader Impacts at Facilities
- Preparation for the Meeting with the NSF Director, Chief Science Officer, and Director's Chief of Staff on Day 2
- Closing Remarks and Adjourn for the Day

Friday, November 1, 2024

- Welcome and Overview of Agenda
- Science Highlight
- The Report of the Committee of Visitors for the Division of Chemistry
- The NSF Budget
- Discussion with the NSF Director, NSF Chief Science Officer, and NSF Director's Chief of Staff
- Closing Remarks and Adjourn

Dated: September 25, 2024.

Crystal Robinson,*Committee Management Officer.*

[FR Doc. 2024-22331 Filed 9-27-24; 8:45 am]

BILLING CODE 7555-01-P**NATIONAL SCIENCE FOUNDATION****Notice of Permit Modification Received Under the Antarctic Conservation Act of 1978****AGENCY:** National Science Foundation.**ACTION:** Notice of permit modification request.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of requests to modify permits issued to conduct activities regulated under the Antarctic Conservation Act of 1978. This is the required notice of a requested permit modification.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 30, 2024. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Office of Polar Programs, National Science

Foundation, 2415 Eisenhower Avenue, Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT:

Andrew Titmus, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703-292-4479; or ACApermits@nsf.gov.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Description of Permit Modification Requested: The Foundation issued a permit (ACA 2023-004) to Steve Emslie on July 27, 2022. The issued permit allows for take and harmful interference associated with research examining ecological responses in diet and foraging behavior of the Adelie penguin (*Pygoscelis adeliae*) in Antarctica. The permit holder may collect up to 150 ancient and modern penguin tissues per year at active and abandoned penguin colonies in the Ross Sea region. The permit holder may enter ASPAs 104, 105, 106, 121, 124, 159, 161, and 165. A recent modification to this permit, dated June 25, 2024, permitted the applicant to also enter ASPA 178 in association with this research.

Now the applicant proposes a modification to the permit to collect small tissue samples from Weddell, Crabeater, Southern Elephant, and Leopard mummified seal carcasses in the Ross Sea Region. The applicant proposes to take up to 10 samples from each species. Mummies would be samples in the field, at their original location and samples weighing less than 15g would be taken from the mouth, lung, and anal area. Samples will undergo RNA analysis, radiocarbon dating, and any remaining tissue will be archived at the University of South Carolina. The applicant has a pending Marine Mammal Protection Act permit under consideration for this research.

Location: Ross Sea Region.

Dates: October 31, 2024–December 31, 2025.

Alina Pavao,*Administrative Assistant, Office of Polar Programs.*

[FR Doc. 2024-22288 Filed 9-27-24; 8:45 am]

BILLING CODE 7555-01-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, October 17, 2024. There will be no in-person gathering for this meeting.

DATES: The virtual meeting will be held on October 17, 2024, beginning at 10 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 October 17, 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 "October 17, 2024" no later than Tuesday, October 15, 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 October 15, 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. 2024-22255 Filed 9-27-24; 8:45 am]

BILLING CODE 6325-39-P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2020-169; MC2024-727 and K2024-20; MC2024-728 and K2024-21; MC2024-729 and K2024-22; MC2024-730 and K2024-23; MC2024-731 and K2024-24; MC2024-732 and K2024-25; MC2024-733 and K2024-26; MC2024-734 and K2024-27; MC2024-735 and K2024-28; MC2024-736 and K2024-29]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 1, 2024.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact

the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment

deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* CP2020-169; *Filing Title:* Notice of United States Postal Service of Modification to Rates Under the Inbound Competitive Multi-Service Prime Agreement; *Filing Acceptance Date:* September 23, 2024; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Katalin K. Clendenin; *Comments Due:* October 1, 2024.

2. *Docket No(s):* MC2024-727 and K2024-20; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 360 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Samuel Robinson; *Comments Due:* October 1, 2024.

3. *Docket No(s):* MC2024-728 and K2024-21; *Filing Title:* USPS Request to Add Priority Mail & USPS Ground Advantage Contract 361 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Samuel Robinson; *Comments Due:* October 1, 2024.

4. *Docket No(s):* MC2024-729 and K2024-22; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 373 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Kenneth R. Moeller; *Comments Due:* October 1, 2024.

5. *Docket No(s):* MC2024-730 and K2024-23; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 374 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Alain Brou; *Comments Due:* October 1, 2024.

6. *Docket No(s):* MC2024-731 and K2024-24; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 375 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* September 23, 2024; *Filing Authority:* 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative:* Alain Brou; *Comments Due:* October 1, 2024.

¹ See Docket No. RM2018-3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19-22 (Order No. 4679).

7. *Docket No(s).*: MC2024–732 and K2024–25; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 376 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 23, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Almaroof Agoro; *Comments Due*: October 1, 2024.

8. *Docket No(s).*: MC2024–733 and K2024–26; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 377 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 23, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Almaroof Agoro; *Comments Due*: October 1, 2024.

9. *Docket No(s).*: MC2024–734 and K2024–27; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 378 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 23, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Christopher C. Mohr; *Comments Due*: October 1, 2024.

10. *Docket No(s).*: MC2024–735 and K2024–28; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 379 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 23, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Jana Slovinska; *Comments Due*: October 1, 2024.

11. *Docket No(s).*: MC2024–736 and K2024–29; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 380 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 23, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Jana Slovinska; *Comments Due*: October 1, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2024–22245 Filed 9–27–24; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2024–737 and K2024–30; MC2024–738 and K2024–31; MC2024–739 and K2024–32; MC2024–740 and K2024–33; MC2024–741 and K2024–34; MC2024–742 and K2024–35]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission’s consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* October 2, 2024.

ADDRESSES: Submit comments electronically via the Commission’s Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

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

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

Pursuant to 39 CFR 3041.405, the Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the Market Dominant or the Competitive product list, or the modification of an existing product currently appearing on the Market Dominant or the Competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request’s acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service’s request(s) can be accessed via

the Commission’s website (<http://www.prc.gov>). Non-public portions of the Postal Service’s request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.¹

The Commission invites comments on whether the Postal Service’s request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern Market Dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern Competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).*: MC2024–737 and K2024–30; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 381 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Jennaca D. Upperman; *Comments Due*: October 2, 2024.

2. *Docket No(s).*: MC2024–738 and K2024–31; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 382 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Christopher C. Mohr; *Comments Due*: October 2, 2024.

3. *Docket No(s).*: MC2024–739 and K2024–32; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 383 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Gregory S. Stanton; *Comments Due*: October 2, 2024.

4. *Docket No(s).*: MC2024–740 and K2024–33; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 384 to the Competitive Product List and

¹ See Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Kenneth R. Moeller; *Comments Due*: October 2, 2024.

5. *Docket No(s)*: MC2024–741 and K2024–34; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 385 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Jennaca D. Upperman; *Comments Due*: October 2, 2024.

6. *Docket No(s)*: MC2024–742 and K2024–35; *Filing Title*: USPS Request to Add Priority Mail Express, Priority Mail & USPS Ground Advantage Contract 386 to the Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: September 24, 2024; *Filing Authority*: 39 U.S.C. 3642, 39 CFR 3035.105, and 3041.310; *Public Representative*: Jana Slovinska; *Comments Due*: October 2, 2024.

This Notice will be published in the **Federal Register**.

Erica A. Barker,
Secretary.

[FR Doc. 2024–22363 Filed 9–27–24; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101155; File No. SR–MIAX–2024–37]

Self-Regulatory Organizations; MIA Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404, Series of Option Contracts Open for Trading, To Amend the Short Term Option Series Program

September 24, 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 September 16, 2024, Miami International Securities Exchange, LLC (“MIAX” or “Exchange”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the Short Term Option Series Program in Interpretations and Policies .02 of Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/miax-options/rule-filings>, at MIAX’s principal office, 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.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Short Term Option Series Program in Interpretations and Policies .02 of Exchange Rule 404, Series of Option Contracts Open for Trading.³ Specifically, the Exchange proposes to expand the Short Term Option Series Program to permit the listing of two Monday expirations for options on SPDR Gold Shares (“GLD”), iShares Silver Trust (“SLV”), and iShares 20+ Year Treasury Bond ETF (“TLT”) (collectively “Exchange Traded Products” or “ETPs”).⁴ This is a competitive filing based on a similar proposal submitted by Nasdaq ISE, LLC (“ISE”) and approved by the Securities and Exchange Commission

³ The Exchange notes that all the rules of Chapter IV of the MIA Options Exchange, including Rule 404, are incorporated by reference to MIA Exchange.

⁴ Today, the Exchange permits the listing of two Wednesday expirations for options on GLD, SLV, and TLT. See Securities Exchange Act Release No. 99160 (December 13, 2023), 88 FR 87822 (December 19, 2023) (SR–MIAX–2023–49) (“Wednesday Approval Order”).

(“Commission”).⁵ MIA Exchange notes that Exchange Rule 404 as proposed to be amended by this filing, is incorporated by reference into the rulebooks of the Exchange’s affiliate MIA Exchange, LLC (“MIA Exchange”). As such, the amendments to Exchange Rule 404 proposed herein will also apply to MIA Exchange members.

Currently, as set forth in Interpretations and Policies .02 of Exchange Rule 404, after an option class has been approved for listing and trading on the Exchange as a Short Term Option Series,⁶ the Exchange may open for trading on any Thursday or Friday that is a business day (“Short Term Option Opening Date”) series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Friday Short Term Option Expiration Dates”). The Exchange may have no more than a total of five Short Term Option Friday Expiration Dates (“Short Term Option Weekly Expirations”). Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that Friday.

Additionally, the Exchange may open for trading series of options on the symbols provided in Table 1 of

⁵ See Securities Exchange Act Release No. 100837 (August 27, 2024), 89 FR 71770 (September 3, 2024) (SR–ISE–2024–21) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rules To Permit the Listing of Two Monday Expirations for Options on SPDR Gold Shares, iShares Silver Trust, and iShares 20+ Year Treasury Bond ETF).

⁶ The term “Short Term Option Series” is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Tuesday, Wednesday, Thursday, or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday. See Exchange Rule 100.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

Interpretations and Policies .02 of Exchange Rule 404 that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire (“Short Term Option Daily Expirations”).⁷ For those symbols listed in Table 1, the Exchange may have no more than a total of two Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations, as applicable, at one time.

Proposal

At this time, the Exchange proposes to expand the Short Term Option Daily Expirations to permit the listing and trading of options on GLD, SLV, and TLT expiring on Mondays. The Exchange proposes to permit two Short Term Option Expiration Dates beyond the current week for each Monday expiration at one time, and would update Table 1 in Interpretations and Policies .02 of Exchange Rule 404 for each of those symbols accordingly.

The proposed Monday GLD, SLV, and TLT expirations will be similar to the current Monday SPY, QQQ, and IWM Short Term Option Daily Expirations set forth in Interpretations and Policies .02 of Exchange Rule 404, such that the Exchange may open for trading on any Friday or Monday that is a business day (beyond the current week) series of options on GLD, SLV, and TLT to expire on any Monday of the month that is a business day and is not a Monday in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire, provided that Monday expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration (“Monday GLD Expirations,” “Monday SLV Expirations,” and “Monday TLT Expirations”) (collectively, “Monday ETP Expirations”).⁸ In the event Short Term Option Daily Expirations expire on a Monday and that Monday is the same day that a standard expiration options series, Monthly Options Series, or Quarterly Options Series expires, the Exchange would skip that week’s listing

and instead list the following week; the two weeks would therefore not be consecutive. Today, Monday expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing expires on the same day in the same class as a standard expiration options series, Monthly Options Series, or Quarterly Options Series.

The interval between strike prices for the proposed Monday ETP Expirations will be the same as those currently applicable to the Short Term Option Series Program.⁹ Specifically, the Monday ETP Expirations will have a strike interval of (i) \$0.50 or greater for strike prices below \$100, and \$1 or greater for strike prices between \$100 and \$150 for all option classes that participate in the Short Term Option Series Program, (ii) \$0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program, or (iii) \$2.50 or greater for strike prices above \$150.¹⁰ As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Monday ETP Expirations series will be P.M.-settled.

Pursuant to the Exchange’s definition of the Short Term Option Series Program, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.¹¹

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.¹² The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.¹³ With the proposed changes, this thirty (30) series restriction would apply to Monday GLD, SLV, and TLT Short Term Option Daily Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list Monday ETP Expirations.

With this proposal, Monday ETP Expirations would be treated similarly to existing Monday SPY, QQQ, and IWM Expirations. With respect to standard expiration option series, Short

Term Option Daily Expirations will be permitted to expire in the same week in which standard expiration option series on the same class expire.¹⁴ Not listing Short Term Option Daily Expirations for one week every month because there was a standard options series on that same class on the Friday of that week would create investor confusion.

Further, as with Monday SPY, QQQ, and IWM Expirations, the Exchange would not permit Monday ETP Expirations to expire on a business day in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire.¹⁵ Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a standard expiration option series, Monthly Options Series, a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Monday ETP Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday for SPY, QQQ and IWM and has not experienced any market disruptions nor issues with capacity. In addition, the Exchange has not experienced any market disruptions or issues with capacity in expanding the three ETPs to the Wednesday expirations.¹⁶ Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday for SPY, QQQ and IWM. Further, the Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday ETP Expirations.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁷ Specifically,

⁷ As set forth in Table 1 in Interpretations and Policies .02 of Exchange Rule 404, the Exchange currently only permits Wednesday expirations for USO, UNG, GLD, SLV, and TLT.

⁸ Today, GLD, SLV, and TLT may trade on Wednesdays. See *supra* note 4. They may also trade on Fridays, as is the case for all options series in the Short Term Option Series Program.

⁹ See Interpretations and Policies .02(e) of Exchange Rule 404.

¹⁰ *Id.*

¹¹ See *supra* note 6.

¹² See Interpretations and Policies .02(a) of Exchange Rule 404.

¹³ *Id.*

¹⁴ See Interpretations and Policies .02(b) of Exchange Rule 404.

¹⁵ See Interpretations and Policies .02 of Exchange Rule 404.

¹⁶ See *supra* note 4.

¹⁷ 15 U.S.C. 78f(b).

the Exchange believes that its proposed rule change is consistent with Section 6(b)(5)¹⁸ requirements in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Similar to Monday expirations in SPY, QQQ, and IWM, the proposal to permit Monday ETP Expirations, subject to the proposed limitation of two expirations beyond the current week, would protect investors and the public interest by providing the investing public and other market participants more choice and flexibility to closely tailor their investment and hedging decisions in these options and allow for a reduced premium cost of buying portfolio protection, thus allowing them to better manage their risk exposure.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed option expirations, in the same way that it monitors trading in the current Short Term Option Series for Monday SPY, QQQ and IWM expirations. The Exchange also represents that it has the necessary system capacity to support the new expirations. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of these option expirations. As discussed above, the Exchange believes that its proposal is a modest expansion of weekly expiration dates for GLD, SLV, and TLT given that it will be limited to two Monday expirations beyond the current week. Lastly, the Exchange believes its proposal will not be a strain on liquidity providers because of the multi-class nature of GLD, SLV, and TLT and the available hedges in highly correlated instruments.

The Exchange believes that the proposal is consistent with the Act as the proposal would overall add a small number of Monday ETP Expirations by limiting the addition of two Monday expirations beyond the current week. The addition of Monday ETP Expirations would remove impediments to and perfect the mechanism of a free and open market by encouraging Market

Makers¹⁹ to continue to deploy capital more efficiently and improve market quality. The Exchange believes that the proposal will allow market participants to expand hedging tools and tailor their investment and hedging needs more effectively in GLD, SLV, and TLT as these funds are most likely to be utilized by market participants to hedge the underlying asset classes. As stated in the Wednesday Approval Order, the ETPs currently trade within “complexes” where, in addition to the underlying security, there are multiple instruments available for hedging. Given the multi-asset class nature of these products and available hedges in highly-correlated instruments, the Exchange believes that its proposal to add Monday expirations on these products will provide market participants with additional useful hedging tools for the underlying asset classes.

Similar to Monday SPY, QQQ, and IWM expirations, the introduction of Monday ETP Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations will allow market participants to purchase options on GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively, thus allowing them to better manage their risk exposure. Today, the Exchange lists Monday SPY, QQQ, and IWM Expirations.²⁰

The Exchange believes the Short Term Option Series Program has been successful to date and that Monday ETP Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging.

There are no material differences in the treatment of Monday SPY, QQQ and IWM expirations compared to the proposed Monday ETP Expirations. Given the similarities between Monday SPY, QQQ and IWM expirations and the proposed Monday ETP Expirations, the Exchange believes that applying the provisions in Interpretations and Policies .02 of Exchange Rule 404 that currently apply to Monday SPY, QQQ

and IWM expirations is justified. For example, the Exchange believes that allowing Monday ETP Expirations and monthly Exchange Traded Product expirations in the same week will benefit investors and minimize investor confusion by providing Monday ETP Expirations in a continuous and uniform manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to filings submitted by ISE.²¹

While the proposal will expand the Short Term Options Expirations to allow Monday ETP Expirations to be listed on the Exchange,²² the Exchange believes that this limited expansion for Monday expirations for options on GLD, SLV, and TLT will not impose an undue burden on competition; rather, it will meet customer demand. The Exchange believes that market participants will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in GLD, SLV, and TLT.

Similar to Monday SPY, QQQ and IWM expirations, the introduction of Monday ETP Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations will allow market participants to purchase options on GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe that the proposal will impose any burden on intermarket competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Monday ETP Expirations. Further, the Exchange does not believe that the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal.

¹⁹ The term “Market Makers” refers to “Lead Market Makers”, “Primary Lead Market Makers” and “Registered Market Makers” collectively. See Exchange Rule 100.

²⁰ See Interpretations and Policies .02 of Exchange Rule 404.

²¹ See *supra* note 5.

²² As noted above, MIAX Emerald incorporates Exchange Rule 404 by reference, so the proposed changes herein will apply to MIAX Emerald as well.

¹⁸ 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act²³ and Rule 19b-4(f)(6) thereunder.²⁴ Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act²⁵ and subparagraph (f)(6) of Rule 19b-4 thereunder.²⁶

A proposed rule change filed under Rule 19b-4(f)(6)²⁷ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁸ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change is a competitive response to a filing submitted by ISE that recently was approved by the Commission.²⁹ The Exchange has stated that waiver of the 30-day operative delay would permit the Exchange to list Monday Short Term Daily Expirations for options on GLD, SLV, and TLT at the same time as ISE. The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and

designates the proposed rule change as operative upon filing.³⁰

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2024-37 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.
- All submissions should refer to file number SR-MIAX-2024-37. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10

a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MIAX-2024-37 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³¹

Vanessa A. Countryman

Secretary.

[FR Doc. 2024-22268 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101146; File No. SR-PEARL-2024-42]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Pearl Options Fee Schedule

September 24, 2024.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 10, 2024, MIAX PEARL, LLC ("MIAX Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend the MIAX Pearl Options Exchange Fee Schedule (the "Fee Schedule") to amend Section 5(f), Member and Non-Member Technical Support Request Fee.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/pearl-options/rule-filings> at

²³ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁴ 17 CFR 240.19b-4(f)(6).

²⁵ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁶ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²⁷ 17 CFR 240.19b-4(f)(6).

²⁸ 17 CFR 240.19b-4(f)(6)(iii).

²⁹ See *supra* note 5.

³⁰ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³¹ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

MIAX Pearl's principal office, 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange³ proposes to amend Section 5(f), Member and Non-Member Technical Support Request Fee, to now include in the fee to be assessed to Members⁴ and non-Members the cost of materials necessary for the Exchange's data center personnel to complete such technical support.

Background

The Exchange established the technical support request fee at the current hourly rate of \$200 per hour in 2017.⁵ The Exchange has an infrastructure comprised of low latency and ultra-low latency proximity solutions in several offsite data center locales offering universal access to all Exchange services via a single common connection across a variety of high speed network interfaces. The Exchange offers connectivity in and between its data center facilities and supports direct attachment of all network equipment or direct attached host systems of both Member and non-Member users of the Exchange.

Technical support refers to the use of Exchange engineers to perform on-site technical support tasks in the data centers for Members and non-Members,

including the following support-related tasks: (1) power cycling of equipment; (2) patching and plugging in cabling and circuits; (3) observing, describing or reporting on display indicators; (4) configuration of hardware components instructed by the customer; (5) diagnosis and repairs as instructed by the customer; (6) swapping hardware components with Exchange-supplied or customer-supplied spares or upgrades; (7) troubleshooting heat related issues as instructed by customers; and (8) returning defective equipment to the manufacturer or customer.

Proposal

The Exchange proposes to amend Section 5(f), Member and Non-Member Technical Support Request Fee, to now include in the fee to be assessed to Members and non-Members that request technical support the cost of materials necessary for the Exchange to complete such technical support in any of the Exchange's data centers. Some examples of materials for such technical support may include, but are not limited to, fiber optic cables, fiber spool, optical connectors (a device used to connect fiber optic cables), and patch cables.

The Exchange does not propose to assess any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support. The Exchange simply proposes to pass through the costs of the materials, if necessary, to complete such technical support. At least one competing exchange group similarly passes through the cost of materials to their customers when performing similar types of services in their data centers.⁶

2. Statutory Basis

The Exchange believes that the proposed fees are consistent with Section 6(b) of the Act⁷ in general, and furthers the objectives of Section 6(b)(4) of the Act⁸ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the

Exchange operates or controls. The Exchange also believes the proposed fees further the objectives of Section 6(b)(5) of the Act⁹ in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes it is reasonable to include in the cost of the technical support request fee the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support because the Exchange will only pass through the actual costs it is charged by external vendors of such materials. The Exchange will not pass through any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support.

The Exchange believes the proposal is equitable and not unfairly discriminatory because the Exchange will pass through the costs of materials for requested technical support in an equal manner to all Members and non-Members that request technical support in the data centers that requires the Exchange to purchase materials to complete such request. The cost for materials provided by the Exchange's external vendors supplying the materials will be passed through directly to the Member or non-Member requesting technical support.

Furthermore, Members and non-Members are not required to use the technical support service. The Exchange offers this service as a convenience to all Members and non-Members. The Exchange believes the proposal is reasonable because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers, while paying for the cost of any materials the Exchange is required to purchase to complete such requests.

Additionally, at least one competing options exchange group passes through the cost of materials to their customers when performing similar types of services in their data centers.¹⁰

³ References to "MIAX Pearl" in this filing are to the options trading facility of MIAX PEARL, LLC.

⁴ The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See the Definitions section of the Fee Schedule and Exchange Rule 100.

⁵ See Securities Exchange Act Release No. 80061 (February 17, 2017), 82 FR 11676 (February 24, 2017) (SR-PEARL-2017-10). See also Fee Schedule, Section 5(f).

⁶ See Nasdaq PHLX LLC Rules, General 8 Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); The Nasdaq Stock Market LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); Nasdaq ISE, LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary).

⁷ 15 U.S.C. 78f(b).

⁸ 15 U.S.C. 78f(b)(4).

⁹ 15 U.S.C. 78f(b)(5).

¹⁰ See *supra* note 6.

Accordingly, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes the proposal to pass through the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange will only pass-through the actual costs it is charged by third-party external vendors for such materials. At least one competing options exchange group similarly passes along charges assessed to those exchanges by third-party external vendors supplying materials on behalf of that exchange group's customers.¹¹

Additionally, the pass through of costs for materials will be assessed equally to all Members and non-Members who request technical support that requires the Exchange to purchase materials to complete the requested support. The Exchange notes that Members and non-Members are not required to use the service. The Exchange offers this service as a convenience to all Members and non-Members. The Exchange believes the proposal will not impose any burden on intra-market competition because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers.

Inter-Market Competition

The Exchange believes that the proposed changes will not result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, market participants are not forced to connect to and trade on all exchanges. The Exchange believes that the proposed pass-through of costs for materials for technical support will not cause any burden on inter-market competition because none of these changes impact other exchanges' ability to compete.

Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹² and Rule 19b-4(f)(2)¹³ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-PEARL-2024-42 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-PEARL-2024-42. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PEARL-2024-42 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-22261 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101152; File No. SR-PEARL-2024-45]

Self-Regulatory Organizations; MIAX PEARL LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404, Series of Option Contracts Open for Trading, To Amend the Short Term Option Series Program

September 24, 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 September 16, 2024, MIAX PEARL, LLC ("MIAX Pearl" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹¹ See *id.*

¹² 15 U.S.C. 78s(b)(3)(A)(ii).

¹³ 17 CFR 240.19b-4(f)(2).

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 is filing a proposal to amend the Short Term Option Series Program in Interpretations and Policies .02 of Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-equities/pearl-equities/rule-filings>, at MIAX Pearl's principal office, 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Short Term Option Series Program in Interpretations and Policies .02 of Exchange Rule 404, Series of Option Contracts Open for Trading.³ Specifically, the Exchange proposes to expand the Short Term Option Series Program to permit the listing of two Monday expirations for options on SPDR Gold Shares ("GLD"), iShares Silver Trust ("SLV"), and iShares 20+ Year Treasury Bond ETF ("TLT") (collectively "Exchange Traded Products" or "ETPs").⁴ This is a competitive filing based on a similar proposal submitted by Nasdaq ISE, LLC ("ISE") and approved by the Securities

and Exchange Commission ("Commission").⁵

Currently, as set forth in Interpretations and Policies .02 of Exchange Rule 404, after an option class has been approved for listing and trading on the Exchange as a Short Term Option Series,⁶ the Exchange may open for trading on any Thursday or Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire ("Friday Short Term Option Expiration Dates"). The Exchange may have no more than a total of five Short Term Option Friday Expiration Dates ("Short Term Option Weekly Expirations"). Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that Friday.

Additionally, the Exchange may open for trading series of options on the symbols provided in Table 1 of Interpretations and Policies .02 of Exchange Rule 404 that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which

⁵ See Securities Exchange Act Release No. 100837 (August 27, 2024), 89 FR 71770 (September 3, 2024) (SR-ISE-2024-21) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rules To Permit the Listing of Two Monday Expirations for Options on SPDR Gold Shares, iShares Silver Trust, and iShares 20+ Year Treasury Bond ETF).

⁶ The term "Short Term Option Series" is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Tuesday, Wednesday, Thursday, or Friday of the next business week, or, in the case of a series that is listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday. See Exchange Rule 100.

standard expiration options series, Monthly Options Series, or Quarterly Options Series expire ("Short Term Option Daily Expirations").⁷ For those symbols listed in Table 1, the Exchange may have no more than a total of two Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations, as applicable, at one time.

Proposal

At this time, the Exchange proposes to expand the Short Term Option Daily Expirations to permit the listing and trading of options on GLD, SLV, and TLT expiring on Mondays. The Exchange proposes to permit two Short Term Option Expiration Dates beyond the current week for each Monday expiration at one time, and would update Table 1 in Interpretations and Policies .02 of Exchange Rule 404 for each of those symbols accordingly.

The proposed Monday GLD, SLV, and TLT expirations will be similar to the current Monday SPY, QQQ, and IWM Short Term Option Daily Expirations set forth in Interpretations and Policies .02 of Exchange Rule 404, such that the Exchange may open for trading on any Friday or Monday that is a business day (beyond the current week) series of options on GLD, SLV, and TLT to expire on any Monday of the month that is a business day and is not a Monday in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire, provided that Monday expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration ("Monday GLD Expirations," "Monday SLV Expirations," and "Monday TLT Expirations") (collectively, "Monday ETP Expirations").⁸ In the event Short Term Option Daily Expirations expire on a Monday and that Monday is the same day that a standard expiration options series, Monthly Options Series, or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Monday expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing expires on the same day in the same class as a standard

³ The Exchange notes that its affiliate exchanges, MIAX Options and MIAX Sapphire, submitted substantively identical proposals.

⁴ Today, the Exchange permits the listing of two Wednesday expirations for options on GLD, SLV, and TLT. See Securities Exchange Act Release No. 99180 (December 14, 2023), 88 FR 88148 (December 20, 2023) (SR-PEARL-2023-70) ("Wednesday Approval Order").

⁷ As set forth in Table 1 in Interpretations and Policies .02 of Exchange Rule 404, the Exchange currently only permits Wednesday expirations for USO, UNG, GLD, SLV, and TLT.

⁸ Today, GLD, SLV, and TLT may trade on Wednesdays. See *supra* note 4. They may also trade on Fridays, as is the case for all options series in the Short Term Option Series Program.

expiration options series, Monthly Options Series, or Quarterly Options Series.

The interval between strike prices for the proposed Monday ETP Expirations will be the same as those currently applicable to the Short Term Option Series Program.⁹ Specifically, the Monday ETP Expirations will have a strike interval of (i) \$0.50 or greater for strike prices below \$100, and \$1 or greater for strike prices between \$100 and \$150 for all option classes that participate in the Short Term Option Series Program, (ii) \$0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program, or (iii) \$2.50 or greater for strike prices above \$150.¹⁰ As is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Monday ETP Expirations series will be P.M.-settled.

Pursuant to the Exchange's definition of the Short Term Option Series Program, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.¹¹

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.¹² The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.¹³ With the proposed changes, this thirty (30) series restriction would apply to Monday GLD, SLV, and TLT Short Term Option Daily Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list Monday ETP Expirations.

With this proposal, Monday ETP Expirations would be treated similarly to existing Monday SPY, QQQ, and IWM Expirations. With respect to standard expiration option series, Short Term Option Daily Expirations will be permitted to expire in the same week in which standard expiration option series on the same class expire.¹⁴ Not listing Short Term Option Daily Expirations for

one week every month because there was a standard options series on that same class on the Friday of that week would create investor confusion.

Further, as with Monday SPY, QQQ, and IWM Expirations, the Exchange would not permit Monday ETP Expirations to expire on a business day in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire.¹⁵ Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire. The Exchange believes that it is reasonable to not permit two expirations on the same day in which a standard expiration option series, Monthly Options Series, a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Monday ETP Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday for SPY, QQQ and IWM and has not experienced any market disruptions nor issues with capacity. In addition, the Exchange has not experienced any market disruptions or issues with capacity in expanding the three ETPs to the Wednesday expirations.¹⁶ Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday for SPY, QQQ and IWM. Further, the Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday ETP Expirations.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁷ Specifically, the Exchange believes that its proposed rule change is consistent with Section 6(b)(5)¹⁸ requirements in that it is designed to prevent fraudulent and manipulative acts and practices, to

promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Similar to Monday expirations in SPY, QQQ, and IWM, the proposal to permit Monday ETP Expirations, subject to the proposed limitation of two expirations beyond the current week, would protect investors and the public interest by providing the investing public and other market participants more choice and flexibility to closely tailor their investment and hedging decisions in these options and allow for a reduced premium cost of buying portfolio protection, thus allowing them to better manage their risk exposure.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed option expirations, in the same way that it monitors trading in the current Short Term Option Series for Monday SPY, QQQ and IWM expirations. The Exchange also represents that it has the necessary system capacity to support the new expirations. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of these option expirations. As discussed above, the Exchange believes that its proposal is a modest expansion of weekly expiration dates for GLD, SLV, and TLT given that it will be limited to two Monday expirations beyond the current week. Lastly, the Exchange believes that its proposal will not be a strain on liquidity providers because of the multi-class nature of GLD, SLV, and TLT and the available hedges in highly correlated instruments.

The Exchange believes that the proposal is consistent with the Act as the proposal would overall add a small number of Monday ETP Expirations by limiting the addition of two Monday expirations beyond the current week. The addition of Monday ETP Expirations would remove impediments to and perfect the mechanism of a free and open market by encouraging Market Makers¹⁹ to continue to deploy capital

⁹ See Interpretations and Policies .02(e) of Exchange Rule 404.

¹⁰ *Id.*

¹¹ See *supra* note 6.

¹² See Interpretations and Policies .02(a) of Exchange Rule 404.

¹³ *Id.*

¹⁴ See Interpretations and Policies .02(b) of Exchange Rule 404.

¹⁵ See Interpretations and Policies .02 of Exchange Rule 404.

¹⁶ See *supra* note 4.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ The term "Market Maker" or "MM" means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange Rules. See Exchange Rule 100. The term "Member" means an individual or organization that is registered with the Exchange

more efficiently and improve market quality. The Exchange believes that the proposal will allow market participants to expand hedging tools and tailor their investment and hedging needs more effectively in GLD, SLV, and TLT as these funds are most likely to be utilized by market participants to hedge the underlying asset classes. As stated in the Wednesday Approval Order, the ETPs currently trade within “complexes” where, in addition to the underlying security, there are multiple instruments available for hedging. Given the multi-asset class nature of these products and available hedges in highly-correlated instruments, the Exchange believes that its proposal to add Monday expirations on these products will provide market participants with additional useful hedging tools for the underlying asset classes.

Similar to Monday SPY, QQQ, and IWM expirations, the introduction of Monday ETP Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations will allow market participants to purchase options on GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively, thus allowing them to better manage their risk exposure. Today, the Exchange lists Monday SPY, QQQ, and IWM Expirations.²⁰

The Exchange believes the Short Term Option Series Program has been successful to date and that Monday ETP Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging.

There are no material differences in the treatment of Monday SPY, QQQ and IWM expirations compared to the proposed Monday ETP Expirations. Given the similarities between Monday SPY, QQQ and IWM expirations and the proposed Monday ETP Expirations, the Exchange believes that applying the provisions in Interpretations and Policies .02 of Exchange Rule 404 that currently apply to Monday SPY, QQQ

pursuant to Chapter II of these Rules for purposes of trading on the Exchange as an “Electronic Exchange Member” or “Market Maker.” Members are deemed “members” under the Act. See Exchange Rule 100.

²⁰ See Interpretations and Policies .02 of Exchange Rule 404.

and IWM expirations is justified. For example, the Exchange believes that allowing Monday ETP Expirations and monthly Exchange Traded Product expirations in the same week will benefit investors and minimize investor confusion by providing Monday ETP Expirations in a continuous and uniform manner.

B. Self-Regulatory Organization’s Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to filings submitted by ISE.²¹

While the proposal will expand the Short Term Options Expirations to allow Monday ETP Expirations to be listed on the Exchange, the Exchange believes that this limited expansion for Monday expirations for options on GLD, SLV, and TLT will not impose an undue burden on competition; rather, it will meet customer demand. The Exchange believes that market participants will continue to be able to expand hedging tools and tailor their investment and hedging needs more effectively in GLD, SLV, and TLT.

Similar to Monday SPY, QQQ and IWM expirations, the introduction of Monday ETP Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations will allow market participants to purchase options on GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe that the proposal will impose any burden on intermarket competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Monday ETP Expirations. Further, the Exchange does not believe that the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal.

²¹ See *supra* note 5.

C. Self-Regulatory Organization’s Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act²² and Rule 19b-4(f)(6) thereunder.²³ Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act²⁴ and subparagraph (f)(6) of Rule 19b-4 thereunder.²⁵

A proposed rule change filed under Rule 19b-4(f)(6)²⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),²⁷ the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change is a competitive response to a filing submitted by ISE that recently was approved by the Commission.²⁸ The Exchange has stated that waiver of the operative delay is consistent with the protection of investors and the public interest because it will ensure fair competition among the exchanges by allowing the Exchange to permit the listing of Monday Short Term Daily Expirations for options on GLD, SLV, and TLT at the same time as ISE. The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is

²² 15 U.S.C. 78s(b)(3)(A)(iii).

²³ 17 CFR 240.19b-4(f)(6).

²⁴ 15 U.S.C. 78s(b)(3)(A)(iii).

²⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²⁶ 17 CFR 240.19b-4(f)(6).

²⁷ 17 CFR 240.19b-4(f)(6)(iii).

²⁸ See *supra* note 5.

consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.²⁹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-PEARL-2024-45 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-PEARL-2024-45. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-PEARL-2024-45 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³⁰

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-22266 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101154; File No. SR-ISE-2024-35]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Options on the iShares Ethereum Trust

September 24, 2024.

On July 22, 2024, Nasdaq ISE, LLC ("ISE") 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 amend Options 4, Section 3, Criteria for Underlying Securities, to allow ISE to list and trade options on the iShares Ethereum Trust. The proposed rule change was published for comment in the **Federal Register** on August 12, 2024.³ The Commission received no comment letters regarding the proposed rule change.

Section 19(b)(2) of the Act⁴ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may

designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 26, 2024. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates November 10, 2024, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR-ISE-2024-35).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-22267 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101150; File No. SR-NYSE-2024-58]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend NYSE Rule 7.13

September 24, 2024.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that on September 12, 2024, New York Stock Exchange LLC ("NYSE" or the "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit

²⁹ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

³⁰ 17 CFR 200.30-3(a)(12), (59).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 100661 (Aug. 6, 2024), 89 FR 65690.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

⁶ 17 CFR 200.30-3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Rule 7.13 to remove references to the Chair of the Board. The proposed rule change is available on the Exchange's website at www.nyse.com, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rule 7.13 (Trading Suspensions) to remove references to the Chair of the Board of Directors of the Exchange ("Board").

Under current Rule 7.13,⁴ the Chair of the Board or the chief executive officer of the Exchange (the "CEO"), or the officer designee of the Chair or the CEO, has the power to suspend trading on any and all securities trading on the Exchange whenever in his or her opinion such suspension would be in the public interest. No such action shall continue longer than two days or as soon thereafter as a quorum of Directors can be assembled, unless the Board approves the continuation of such suspension.

The Exchange believes that it is advisable to remove the references to the Chair in Rule 7.13 because the Chair

has not acted under Rule 7.13 since the rule was adopted and the Exchange does not anticipate that an independent or non-employee Chair will have sufficient involvement in the day-to-day operations of the Exchange to act under the Rule.

To effectuate the change, the Rule would be amended as follows (proposed deletions bracketed):

The [Chair of the Board or the] CEO, or the officer designee of [the Chair or] the CEO, shall have the power to suspend trading in any and all securities trading on the Exchange whenever in his or her opinion such suspension would be in the public interest.

The requirement that no such action continue longer than two days or as soon thereafter as a quorum of Directors can be assembled, unless the Board approves the continuation of such suspension, would remain. No other changes to Rule 7.13 are proposed.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,⁵ in general, and furthers the objectives of Section 6(b)(1)⁶ in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,⁷ in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is designed to provide fair procedures for the denial of membership to any person seeking Exchange membership, the barring of any person from becoming associated with a member, and the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange or a member thereof, consistent with the objectives of

Section 6(b)(7)⁸ and Section 6(d)(2)⁹ of the Act.

The proposed amendment would enable the Exchange to continue to be so organized as to have the capacity to carry out the purposes of the Act, thereby furthering the objectives of Section 6(b)(1)¹⁰ of the Act. Amending Rule 7.13 to remove the references to the Chair would contribute to the orderly operation of the Exchange, as it would make Rule 7.13 more accurately reflect current practice, as the Chair has not acted under Rule 7.13 since the rule was adopted. It would also reflect the fact that the Exchange does not anticipate that an independent or non-employee Chair will have sufficient involvement in the day-to-day operations of the Exchange to act under the Rule. At the same time, the Chair would continue to have an oversight role, since the requirement would remain that no suspension of trading continue longer than two days or as soon thereafter as a quorum of Directors can be assembled, unless the Board approves the continuation of such suspension. Given that, the Board—including the Chair—would continue to oversee the length of time any suspension of trading made under the Rule would be in effect.

Because amended Rule 7.13 would more accurately reflect current practice while still giving the Chair an oversight role, the Exchange believes that the proposed change would be beneficial to both investors and the public interest, thereby promoting the maintenance of a fair and orderly market and the protection of investors and the public interest consistent with Section 6(b)(5) of the Act.¹¹ For the same reasons, the Exchange believes that the proposed changes would continue to provide fair procedures for the prohibition or limitation by the Exchange of any person with respect to access to services offered by the Exchange consistent with the objectives of Section 6(b)(7)¹² and Section 6(d)(2)¹³ of the Act.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposal will not impose any burden on competition that is not necessary or appropriate in furtherance of the

⁴ The current text of Rule 7.13 was adopted in 2021 to harmonize the Exchange's rules with those of its affiliates NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc. and NYSE National, Inc. (together, the "Affiliate SROs"). See Securities and Exchange Act Release No. 93309 (October 13, 2021), 86 FR 57862 (October 19, 2021) (SR-NYSE-2021-60) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Rules To Add New Rule 7.13). The Affiliate SROs expect to make the change proposed here.

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(1).

⁷ 15 U.S.C. 78f(b)(5).

⁸ 15 U.S.C. 78f(b)(7).

⁹ 15 U.S.C. 78f(d)(2).

¹⁰ 15 U.S.C. 78f(b)(1).

¹¹ 15 U.S.C. 78f(b)(5).

¹² 15 U.S.C. 78f(b)(7).

¹³ 15 U.S.C. 78f(d)(2).

purposes of Section 6(b)(8) of the Act.¹⁴ The proposed rule change is not intended to address competitive issues but rather is concerned solely with amending Rule 7.13 so that it more accurately reflects current practice.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) by order approve or disapprove the proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

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-NYSE-2024-58 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-NYSE-2024-58. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements

with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-NYSE-2024-58 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁵

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-22264 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101147; File No. SR-MIAX-2024-36]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule

September 24, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 10, 2024, Miami International Securities Exchange, LLC ("MIAX" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 is filing a proposal to amend the MIAX Options Exchange Fee Schedule (the "Fee Schedule") to amend Section 5)f), Member and Non-Member Technical Support Request Fee.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings>, at MIAX's principal office, 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 5)f), Member and Non-Member Technical Support Request Fee, to now include in the fee to be assessed to Members³ and non-Members the cost of materials necessary for the Exchange's data center personnel to complete such technical support.

Background

The Exchange established the technical support request fee at the current hourly rate of \$200 per hour in 2016.⁴ The Exchange has an infrastructure comprised of low latency and ultra-low latency proximity solutions in several offsite data center locales offering universal access to all Exchange services via a single common

³ The term "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See Exchange Rule 100.

⁴ See Securities Exchange Act Release No. 77989 (June 3, 2016), 81 FR 37219 (June 9, 2016) (SR-MIAX-2016-13). See also Fee Schedule, Section 5)f).

¹⁴ 15 U.S.C. 78f(b)(8).

¹⁵ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

connection across a variety of high speed network interfaces. The Exchange offers connectivity in and between its data center facilities and supports direct attachment of all network equipment or direct attached host systems of both Member and non-Member users of the Exchange.

Technical support refers to the use of Exchange engineers to perform on-site technical support tasks in the data centers for Members and non-Members, including the following support-related tasks: (1) power cycling of equipment; (2) patching and plugging in cabling and circuits; (3) observing, describing or reporting on display indicators; (4) configuration of hardware components instructed by the customer; (5) diagnosis and repairs as instructed by the customer; (6) swapping hardware components with Exchange-supplied or customer-supplied spares or upgrades; (7) troubleshooting heat related issues as instructed by customers; and (8) returning defective equipment to the manufacturer or customer.

Proposal

The Exchange proposes to amend Section 5(f), Member and Non-Member Technical Support Request Fee, to now include in the fee to be assessed to Members and non-Members that request technical support the cost of materials necessary for the Exchange to complete such technical support in any of the Exchange's data centers. Some examples of materials for such technical support may include, but are not limited to, fiber optic cables, fiber spool, optical connectors (a device used to connect fiber optic cables), and patch cables.

The Exchange does not propose to assess any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support. The Exchange simply proposes to pass through the costs of the materials, if necessary, to complete such technical support. At least one competing exchange group similarly passes through the cost of materials to their customers when performing similar types of services in their data centers.⁵

⁵ See Nasdaq PHLX LLC Rules, General 8 Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); The Nasdaq Stock Market LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); Nasdaq ISE, LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary).

2. Statutory Basis

The Exchange believes that the proposed fees are consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(4) of the Act⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposed fees further the objectives of Section 6(b)(5) of the Act⁸ in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes it is reasonable to include in the cost of the technical support request fee the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support because the Exchange will only pass through the actual costs it is charged by external vendors of such materials. The Exchange will not pass through any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support.

The Exchange believes the proposal is equitable and not unfairly discriminatory because the Exchange will pass through the costs of materials for requested technical support in an equal manner to all Members and non-Members that request technical support in the data centers that requires the Exchange to purchase materials to complete such request. The cost for materials provided by the Exchange's external vendors supplying the materials will be passed through directly to the Member or non-Member requesting technical support.

Furthermore, Members and non-Members are not required to use the technical support service. The Exchange offers this service as a convenience to all Members and non-Members. The Exchange believes the proposal is reasonable because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78f(b)(5).

to the Exchange via its data centers, while paying for the cost of any materials the Exchange is required to purchase to complete such requests.

Additionally, at least one competing options exchange group passes through the cost of materials to their customers when performing similar types of services in their data centers.⁹ Accordingly, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes the proposal to pass through the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange will only pass-through the actual costs it is charged by third-party external vendors for such materials. At least one competing options exchange group similarly passes along charges assessed to those exchanges by third-party external vendors supplying materials on behalf of that exchange group's customers.¹⁰

Additionally, the pass through of costs for materials will be assessed equally to all Members and non-Members who request technical support that requires the Exchange to purchase materials to complete the requested support. The Exchange notes that Members and non-Members are not required to use the service. The Exchange offers this service as a convenience to all Members and non-Members. The Exchange believes the proposal will not impose any burden on intra-market competition because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers.

Inter-Market Competition

The Exchange believes that the proposed changes will not result in any burden on inter-market competition that is not necessary or appropriate in

⁹ See *supra* note 5.

¹⁰ See *id.*

furtherance of the purposes of the Act. As discussed above, market participants are not forced to connect to and trade on all exchanges. The Exchange believes that the proposed pass-through of costs for materials for technical support will not cause any burden on inter-market competition because none of these changes impact other exchanges' ability to compete.

Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and Rule 19b-4(f)(2)¹² thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-MIAX-2024-36 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-MIAX-2024-36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-MIAX-2024-36 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024-22262 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101151; File No. SR OCC-2024-012]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Options Clearing Corporation Concerning Updates to OCC's Capital Management Policy

September 24, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Exchange Act" or "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 16, 2024, The Options Clearing Corporation ("OCC" or "Corporation") 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 primarily by OCC. OCC filed the proposed rule change pursuant to Section 19(b)(3)(A)³ of the Act and Rule 19b-4(f)(6)⁴ thereunder. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change would to: (1) revise OCC's Capital Management Policy to update its plan for raising additional capital ("Replenishment Plan") should OCC experience potential general business losses, (2) amend OCC's schedule of fees necessary to reflect the proposed change in OCC's Capital Management Plan, and (3) update OCC Rule 101 to maintain consistency with the proposed change in OCC's Capital Management Policy.

Proposed changes to OCC's Capital Management Policy, schedule of fees, and Rule 101 are included in Exhibits 5A, 5B, and 5C to File No. SR-OCC-2024-012, respectively. Material proposed to be added is marked by underlining and material proposed to be deleted is marked in strikethrough text. All capitalized terms not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.⁵

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ 15 U.S.C. 78s(b)(3)(A).

⁴ 17 CFR 240.19b-4(f)(6).

⁵ <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

¹³ 17 CFR 200.30-3(a)(12).

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

OCC's Capital Management Policy was adopted in 2019, and it establishes the principles used to quantify, monitor and manage the level of OCC's Equity⁶ such that OCC maintains liquid net assets funded by equity ("LNAFBE")⁷ to cover potential general business losses and continue operations and services as a going concern if losses materialize under a range of scenarios, including adverse market conditions.

A main component of the Capital Management Policy is OCC's plan to replenish its capital in the event it falls close to or below its target capital (as defined below, "Replenishment Plan"), as required by SEC Rule 17Ad-22(e)(15)(iii).⁸ This rule provides that OCC must maintain a "viable plan, approved by the board of directors and updated at least annually, for raising additional Equity should its Equity fall close to or below the amount required under SEC Rule 17Ad-22(e)(15)(ii)."⁹ In satisfaction with SEC Rule 17Ad-22(e)(15)(iii), OCC's Replenishment Plan establishes a plan for accessing additional capital should OCC's Equity fall below certain thresholds.

OCC's existing Replenishment Plan provides that (i) should OCC's Equity less the Minimum Corporate Contribution fall below 110% of the Target Capital Requirement (as defined by the Capital Management Policy, "Early Warning"), Management would recommend to the Board whether to implement a fee increase in an amount the Board determines necessary and appropriate to raise additional Equity; (ii) should OCC's Equity less the Minimum Corporate Contribution fall below 90% of the Target Capital Requirement or fall below the Target Capital Requirement for a period of ninety consecutive days (as defined in the Capital Management Policy, "Trigger Event"), OCC would contribute the funds held under OCC's Executive Deferred Compensation Plan Trust which are (a) deposited on and after January 1, 2020 in respect of the Corporation's Executive Deferred Compensation Plan ("EDCP") and (b) in

excess of amounts necessary to pay for the benefits accrued and vested under the EDCP as of such date (defined in Chapter 1 of OCC's Rules as "EDCP Unvested Balance"); and (iii) should the contribution of the EDCP Unvested Balance fail to cure the Trigger Event, or if a further Trigger Event occurs, OCC will charge an Operational Loss Fee in equal shares to the Clearing Members.

OCC's existing Replenishment Plan states that in the event of a Trigger Event, OCC will first contribute the funds necessary to cure such loss with the EDCP Unvested Balance. If the loss cannot be cured after applying all available EDCP Unvested Balance, OCC will then charge an Operational Loss Fee in equal share to each Clearing Member.

The purpose of this proposed rule change is to revise the Replenishment Plan in the Capital Management Policy so that the Early Warning and Trigger Event are measured against LNAFBE rather than Equity. At the time the Capital Management Policy was adopted, LNAFBE and Equity were much closer in size than they are currently. Given the growing difference between Equity and LNAFBE, it is possible that in the event of an operational loss, LNAFBE may fall below the Target Capital Requirement, but Equity would remain above the Early Warning and Trigger Event. In that instance, OCC would not be able to access the Operational Loss Fee to bring LNAFBE above the Target Capital Requirement because OCC's Equity would still be above the Trigger Event. Consequently, OCC proposes to amend the Replenishment Plan in the Capital Management Policy such that the Early Warning and Trigger Event are measured against LNAFBE, rather than Equity. As defined in the Capital Management Policy, LNAFBE will always be less than or equal to Equity. By amending the Replenishment Plan in the Capital Management Policy so that the Early Warning and Trigger Event are measured against LNAFBE, rather than Equity, OCC will have the ability to access its Replenishment Plan, including the Operational Loss Fee, in the event its LNAFBE falls below regulatory minimums.

To implement the proposed changes in the Replenishment Plan in the Capital Management Policy, OCC also proposes to update its schedule of fees to revise the Operational Loss Fee such that OCC would charge the Operational Loss Fee if OCC's LNAFBE falls below the Trigger Event.

Proposed Changes

As described in detail below, OCC proposes to revise the Replenishment Plan under its Capital Management Policy so that the Early Warning and Trigger Event are measured against LNAFBE, rather than Equity. OCC also proposes to make conforming changes to its schedule of fees necessary to implement the proposed changes in the Replenishment Plan to promote compliance with SEC Rule 17Ad-22(e)(15)(iii).

In addition, OCC proposes to incorporate several non-substantive changes to the Capital Management Policy, including updating the header text at the beginning of the document to incorporate additional sections to promote clarity and consistency for document use and management. Specifically, OCC's proposed changes add the following sections to the header at the beginning of the document: (i) Policy Owner, (ii) Document Type, (iii) Board Approval, (iv) Rule Filed, and (iv) Version Number. To promote additional clarity, OCC's proposed changes also add the term "version" prior to the header labeled as "effective date." Finally, OCC's proposed changes eliminate the header labeled as "scope" as OCC believes this section is unnecessary for document use and management.

Replenishment Plan

i. Early Warning

OCC would revise the Replenishment Plan's Early Warning so that it is measured against LNAFBE. Specifically, the Capital Management Policy would define the Early Warning to be when LNAFBE, rather than Equity less the Minimum Corporate Contribution, falls below 110% of the Target Capital Requirement.¹⁰ OCC proposes replacing Equity with LNAFBE within the Capital Management Policy to reflect this change to the Early Warning as well as the change to the definition of Trigger Event described below. After this

¹⁰ OCC's Capital Management Policy explains how OCC sets its Target Capital Requirement, including how OCC may set its Target Capital Requirement to retain "additional Equity generated from revenue." To conform with the proposed changes, OCC proposes to modify those references to "additional Equity generated from revenue, in the form of LNAFBE." Specifically, OCC's proposed changes would clarify that OCC can retain additional Equity generated from revenue, in the form of LNAFBE, for capital expenditures following a recommendation by Management and Board approval. OCC's proposed changes would also clarify that the Board would (a) determine if the capital needs are necessary and appropriate and, if so, (b) determine whether to (i) increase the Target Capital Requirement or (ii) retain the additional Equity, in the form of LNAFBE, as an amount in excess of the Target Capital Requirement.

⁶ The Capital Management Policy defines "Equity" as shareholders' equity as shown on OCC's Statement of Financial Condition.

⁷ The Capital Management Policy defines "LNAFBE" as the level of cash and cash equivalents, no greater than Equity, less any approved adjustments (*i.e.*, agency-related liabilities such as Section 31 fees held by OCC and the Minimum Corporate Contribution).

⁸ 17 CFR 240.17Ad-22(e)(15)(iii).

⁹ *Id.* (emphasis added).

replacement, the Capital Management Policy would explain that in the event of an operational loss, OCC would first use LNAFBE, rather than Equity less the Minimum Corporate Contribution, above 110% of Target Capital. The proposed changes would further describe that in the event OCC's LNAFBE, rather than equity, breaches the Early Warning, Management would recommend to the Board whether to implement a fee increase in an amount the Board determines necessary and appropriate to raise additional LNAFBE, rather than Equity. The recommendation whether to implement the fee increase would be informed by several factors including, but not limited to, the facts, circumstances and root cause of a decrease in LNAFBE, rather than Equity, below the Early Warning.

ii. Trigger Event

OCC would further revise the Replenishment Plan's Trigger Event so that it is measured against LNAFBE. Specifically, the Capital Management Policy would define a Trigger Event to be when OCC's LNAFBE, rather than Equity less the Minimum Corporate Contribution, falls below 90% of the Target Capital Requirement or remains below the Target Capital Requirement for ninety consecutive calendar days. If a Trigger Event occurs, OCC would first contribute the funds necessary to cure such loss with the EDCP Unvested Balance. To reflect the new definition of Trigger Event, the Capital Management Policy would be changed to explain that if OCC's LNAFBE, rather than Equity, remains below 90% of the Target Capital Requirement after applying the EDCP Unvested Balance, or if a further Trigger Event occurs after applying all available EDCP Unvested Balance, OCC would charge an Operational Loss Fee¹¹ in equal share to each Clearing Member payable on five business days' notice, to raise additional capital. The Capital Management Policy would be edited to provide that, in the event less than the full amount of the maximum Operational Loss Fee is needed to return OCC's LNAFBE, rather than Equity, to 110% of the Target Capital Requirement, OCC would charge only that amount necessary to return OCC's LNAFBE, rather than Equity, to 110% of the Target Capital Requirement. This change better ensures that OCC holds the mandated amount of LNAFBE. The proposed changes to the Capital Management Policy would also remove

the term "threshold" after Early Warning and Trigger Event where the Early Warning and Trigger Event already incorporate that concept and clarify that Trigger means Trigger Event in the Replenishment Plan.

Capital Monitoring

OCC proposes to update the heading of section B in Exhibit 5A from "Monitoring Equity Levels" to "Capital Monitoring" to more closely align with the other headings throughout this document, and clarify the information that is described in this section. The Capital Management Policy describes how Management reviews periodic analyses of LNAFBE, including projecting future volume, expenses, cash flows, capital needs and other factors to help ensure adequate financial resources are available to meet general business obligations. The proposed changes to the Capital Management Policy would provide that Management also reviews an analysis of LNAFBE, as opposed to Equity,¹² at least monthly to ensure: (i) an Early Warning has not occurred or is not reasonably expected to occur prior to the next review; and (ii) a Trigger Event has not occurred and is not expected to occur prior to the next review. The Capital Management Policy would explain that at each regularly scheduled Board and Compensation and Performance Committee ("CPC") meeting, the Chief Financial Officer ("CFO") would report on the firm's LNAFBE, rather than Equity, relative to the Target Capital Requirements, Early Warning and Trigger Event. The Capital Management Policy would also provide that if OCC suffers a catastrophic or sizable loss during the month, and such loss amount is known or can reasonably be estimated, Management should review a forecast of the impact on LNAFBE, rather than Equity. Finally, the Capital Management Policy would state that if such forecast demonstrates that LNAFBE, rather than Equity, has fallen below the Early Warning or Trigger Event, Management should promptly notify the Board.

Capital Management

In addition to the Replenishment Plan, the Capital Management Policy also addresses certain actions the Board may take based on, and which impact,

¹² Separately from the Capital Management Policy's measurement of LNAFBE against the Early Warning and Trigger Event, OCC also reviews its Equity on an at-least monthly basis for purposes of measuring its financial resources, including OCC's own capital and any other financial resources deemed acceptable by the CFTC, to satisfy the CFTC's requirement that OCC cover its operating costs for a period of at least one year on a rolling basis. See 17 CFR 39.11(a)(2).

the level of OCC's Equity or LNAFBE, including the circumstances under which the Board may consider using tools to lower Clearing Members' cost of participation such as through a fee decrease, fee hold and fee refund. Consistent with the changes to measure the aforementioned thresholds against LNAFBE, OCC would amend the Capital Management Policy to provide that the Board may only use such tools if LNAFBE, rather than Equity, is above 110% of the Target Capital Requirement. In practice, OCC would not have taken such measures if its LNAFBE was below 110% of the Target Capital Requirement. This change would clearly express that practice in the Capital Management Policy.

Proposed Changes to OCC Rule 101

Consistent with the proposed changes to the Capital Management Policy, OCC also proposes to amend the definition of "Target Capital Requirement" as defined in OCC Rule 101.¹³ The Rules use that term to provide for the variable amount of skin-in-the-game (*i.e.*, LNAFBE in excess of 110% of the Target Capital Requirement) that OCC would contribute to cover losses or liquidity shortfalls arising from a Clearing Member default under OCC Rule 1006 in specified circumstances. As described in Exhibit 5C to File No. SR-OCC-2024-012, OCC proposes to replace the term "shareholders' equity" with "liquid net assets funded by equity ("LNAFBE")" within the definition of Target Capital Requirement. Revising the definition of Target Capital Requirement to refer to the level of LNAFBE, as opposed to shareholder's equity, would maintain consistency with the above referenced changes to OCC's Capital Management Policy.

Fee Schedule

OCC would also amend its fee schedule to reflect the conditions under which it would charge the Operational Loss Fee. As described in Exhibit 5B to File No. SR-OCC-2024-012, OCC would charge the Operational Loss Fee in equal shares to Clearing Members to raise additional capital if OCC's LNAFBE, as opposed to Equity less the Minimum Corporate Contribution, falls below 90% of the Target Capital Requirement or below the Target Capital Requirement for a period of ninety consecutive calendar days, after first applying the unvested balance held in respect of OCC's EDCP. Furthermore, if less than the full amount of the

¹¹ OCC has outlined when the Operational Loss Fee can be charged in OCC's Schedule of Fees in Exhibit 5B.

¹³ <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

maximum Operational Loss Fee is needed to return OCC's LNAFBE, as opposed to Equity, to 110% of the Target Capital Requirement, OCC would charge only that amount necessary to return OCC's LNAFBE to 110% of the Target Capital Requirement.

2. Statutory Basis

OCC believes the proposed rule change is consistent with Section 17A of the Exchange Act¹⁴ and the rules and regulations thereunder. In particular, OCC believes that the Capital Management Policy is consistent with Section 17A(b)(3)(F) of the Exchange Act¹⁵ and Rule 17Ad-22(e)(15).¹⁶

Section 17A(b)(3)(F) of the Exchange Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.¹⁷ The Capital Management Policy is designed to ensure that OCC holds sufficient LNAFBE such that it could continue to promptly and accurately clear and settle securities transactions even if it suffered significant operational losses. Holding sufficient LNAFBE would help OCC to absorb such operational losses and avoid a disruption that could negatively impact OCC's prompt and accurate clearing and settlement of transactions. Furthermore, by maintaining sufficient LNAFBE, OCC will ensure adequate financial resources are available to meet general business obligations. In addition, OCC would protect the interests of investors and the general public through the Capital Management Policy, which is designed to ensure that such losses would not result in a failure or disruption of a Systemically Important Financial Market Utility ("SIFMU"), as OCC is designated by the Financial Stability Oversight Council ("FSOC") pursuant to the Payment, Clearing and Settlement Supervision Act.¹⁸ FSOC has concluded that a failure or disruption at OCC would negatively affect significant dollar value and volume transactions in the options and futures markets, impose material losses on OCC counterparties and create liquidity and credit problems for financial institutions and others that rely on the markets OCC serves, and that such credit and liquidity problems would spread quickly and broadly among financial institutions and other

markets.¹⁹ Accordingly, FSOC determined that a failure or disruption at OCC could threaten the stability of the U.S. financial system.²⁰ Therefore, OCC believes that the Capital Management Policy, which is reasonably designed to ensure that OCC has sufficient LNAFBE to continue operations in the event of an operational loss, is consistent with the requirements of Section 17A(b)(3)(F) of the Exchange Act by protecting investors and the public interest.²¹

Rule 17Ad-22(e)(15)(iii) requires, in part, that OCC establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage OCC's general business risk, including by maintaining a viable plan, approved by the Board and updated at least annually, for raising additional equity should its equity fall below the required amount under Rule 17Ad-22(e)(15)(ii).²² The amendments to the Replenishment Plan in the Capital Management Policy, OCC's schedule of fees, and OCC's Rules are reasonably designed to establish a viable plan to raise additional capital in an amount up to the amount the Board determines annually to be sufficient to ensure recovery or orderly wind-down should OCC's LNAFBE fall close to or below its Target Capital Requirements. In addition, by providing that the Early Warning and Trigger Event be measured against LNAFBE, rather than Equity, this will ensure that OCC has access to its Replenishment Plan, including the Operational Loss Fee, to cover potential general business losses so that OCC can continue operations and services as a going concern if those losses materialize, as required under Rule 17Ad-22(e)(15).²³ Furthermore, this proposed rule change would effectuate changes to the Replenishment Plan approved by OCC's Board during its annual review, consistent with Rule 17Ad-22(e)(15)(iii).²⁴

The Capital Management Policy is also designed to identify, monitor and manage OCC's general business risk, consistent with Rule 17Ad-22(e)(15),²⁵ by providing that OCC would perform an analysis of its LNAFBE on at least a monthly basis to ensure that OCC's LNAFBE has not fallen below the Early Warning or Trigger Event and is not likely to fall below those thresholds

prior to the next review. The Capital Management Policy's requirement that Management report on the firm's LNAFBE relative to the Early Warning and Trigger Event at each regularly scheduled Board meeting is also designed to identify, monitor, and manage OCC's general business risk. The Capital Management Policy's requirement that the Board be promptly notified in the event of an Early Warning or Trigger Event is also reasonably designed to ensure that OCC can act quickly to ensure OCC's compliance with the LNAFBE-holding requirements of Rule 17Ad-22(e)(15).²⁶

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act²⁷ requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC believes that the proposed changes to its Capital Management Policy and its schedule of fees to measure the Early Warning and Trigger Event against LNAFBE, rather than Equity, and to its Rules, would not have any impact, or impose any burden, on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. As described above, the Replenishment Plan is designed for OCC to access additional capital should OCC's LNAFBE fall below certain thresholds so OCC can meet the requirements of SEC Rule 17Ad-22(e)(15) and serve its Clearing Members and the public interest.

Any barrier to entry that the Operational Loss Fee may impose is appropriate in furtherance of the Exchange Act, and the rules the SEC has promulgated thereunder. Pursuant to SEC Rule 17Ad-22(e)(15)(iii),²⁸ OCC must hold minimum LNAFBE and have a viable plan to replenish equity should OCC's equity fall close to or below those minimums. It is entirely appropriate that the Clearing Members that benefit equally from OCC's services share the burden equally should OCC experience an operational loss that threatens its ability to continue providing those services and comply with its regulatory obligations.

¹⁹ FSOC Annual Report, Appendix A, at 187 (2012), available at <https://home.treasury.gov/system/files/261/here.pdf>.

²⁰ *Id.*

²¹ 15 U.S.C. 78q-1(b)(3)(F).

²² 17 CFR 240.17Ad-22(e)(15)(iii).

²³ 17 CFR 240.17Ad-22(e)(15).

²⁴ 17 CFR 240.17Ad-22(e)(15)(iii).

²⁵ 17 CFR 240.17Ad-22(e)(15).

²⁶ *Id.*

²⁷ 15 U.S.C. 78q-1(b)(3)(I).

²⁸ 17 CFR 240.17Ad-22(e)(15)(iii).

¹⁴ 15 U.S.C. 78q-1.

¹⁵ 15 U.S.C. 78q-1(b)(3)(F).

¹⁶ 17 CFR 240.17Ad-22(e)(15).

¹⁷ 15 U.S.C. 78q-1(b)(3)(F).

¹⁸ 12 U.S.C. 5463.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed change and none have been received. OCC will notify the Commission of any written comments received by OCC. OCC will notify the Commission of any written comments received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act²⁹ and Rule 19b-4(f)(6)³⁰ thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.³¹

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-OCC-2024-012 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-OCC-2024-012. 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 such filing also will be available for inspection and copying at the principal office of OCC and on OCC's website at <https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules>.

Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-OCC-2024-012 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³²

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024-22265 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101148; File No. SR-SAPPHIRE-2024-28]

Self-Regulatory Organizations; MIAx Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule

September 24, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 10, 2024, MIAx Sapphire, LLC ("MIAx Sapphire" or "Exchange") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 is filing a proposal to amend the MIAx Sapphire Options Exchange Fee Schedule (the "Fee Schedule") to amend Section 5(f), Technical Support Request Fee.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings>, at MIAx Sapphire's principal office, 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.

²⁹ 15 U.S.C. 78s(b)(3)(A).

³⁰ 17 CFR 240.19b-4(f)(6).

³¹ Notwithstanding its immediate effectiveness, implementation of this rule change will be delayed until this change is deemed certified under CFTC Regulation 40.6.

³² 17 CFR 200.30-3(a)(12).

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

The Exchange proposes to amend Section 5)f), Technical Support Request Fee, to now include in the fee to be assessed to Members³ and non-Members the cost of materials necessary for the Exchange's data center personnel to complete such technical support.

Background

The Exchange established the technical support request fee at the current hourly rate of \$250 per hour in 2024 when the Exchange launched operations.⁴ The Exchange has an infrastructure comprised of low latency and ultra-low latency proximity solutions in several offsite data center locales offering universal access to all Exchange services via a single common connection across a variety of high speed network interfaces. The Exchange offers connectivity in and between its data center facilities and supports direct attachment of all network equipment or direct attached host systems of both Member and non-Member users of the Exchange.

Technical support refers to the use of Exchange engineers to perform on-site technical support tasks in the data centers for Members and non-Members, including the following support-related tasks: (1) power cycling of equipment; (2) patching and plugging in cabling and circuits; (3) observing, describing or reporting on display indicators; (4) configuration of hardware components instructed by the customer; (5) diagnosis and repairs as instructed by the customer; (6) swapping hardware components with Exchange-supplied or customer-supplied spares or upgrades; (7) troubleshooting heat related issues as instructed by customers; and (8) returning defective equipment to the manufacturer or customer.

Proposal

The Exchange proposes to amend Section 5)f), Technical Support Request Fee, to now include in the fee to be assessed to Members and non-Members

that request technical support the cost of materials necessary for the Exchange to complete such technical support in any of the Exchange's data centers. Some examples of materials for such technical support may include, but are not limited to, fiber optic cables, fiber spool, optical connectors (a device used to connect fiber optic cables), and patch cables.

The Exchange does not propose to assess any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support. The Exchange simply proposes to pass through the costs of the materials, if necessary, to complete such technical support. At least one competing exchange group similarly passes through the cost of materials to their customers when performing similar types of services in their data centers.⁵

2. Statutory Basis

The Exchange believes that the proposed fees are consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(4) of the Act⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposed fees further the objectives of Section 6(b)(5) of the Act⁸ in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and are not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes it is reasonable to include in the cost of the technical support request fee the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support because the Exchange will only

pass through the actual costs it is charged by external vendors of such materials. The Exchange will not pass through any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support.

The Exchange believes the proposal is equitable and not unfairly discriminatory because the Exchange will pass through the costs of materials for requested technical support in an equal manner to all Members and non-Members that request technical support in the data centers that requires the Exchange to purchase materials to complete such request. The cost for materials provided by the Exchange's external vendors supplying the materials will be passed through directly to the Member or non-Member requesting technical support.

Furthermore, Members and non-Members are not required to use the technical support service. The Exchange offers this service as a convenience to all Members and non-Members. The Exchange believes the proposal is reasonable because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers, while paying for the cost of any materials the Exchange is required to purchase to complete such requests.

Additionally, at least one competing options exchange group passes through the cost of materials to their customers when performing similar types of services in their data centers.⁹ Accordingly, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Intra-Market Competition

The Exchange believes the proposal to pass through the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange will only pass-through the actual costs it is charged by

³ The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of Exchange Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Exchange Act. See the Definitions section of the Fee Schedule and Exchange Rule 100.

⁴ See Securities Exchange Act Release No. 100750 (August 16, 2024), 89 FR 68005 (August 22, 2024) (SR-SAPPHIRE-2024-16). See also Fee Schedule, Section 5)f).

⁵ See Nasdaq PHLX LLC Rules, General 8 Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); The Nasdaq Stock Market LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); Nasdaq ISE, LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See *supra* note 5.

third-party external vendors for such materials. At least one competing options exchange group similarly passes along charges assessed to those exchanges by third-party external vendors supplying materials on behalf of that exchange group's customers.¹⁰

Additionally, the pass through of costs for materials will be assessed equally to all Members and non-Members who request technical support that requires the Exchange to purchase materials to complete the requested support. The Exchange notes that Members and non-Members are not required to use the service. The Exchange offers this service as a convenience to all Members and non-Members. The Exchange believes the proposal will not impose any burden on intra-market competition because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers.

HD3-Market Competition

The Exchange believes that the proposed changes will not result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, market participants are not forced to connect to and trade on all exchanges. The Exchange believes that the proposed pass-through of costs for materials for technical support will not cause any burden on inter-market competition because none of these changes impact other exchanges' ability to compete.

Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and Rule 19b-4(f)(2)¹² thereunder.

At any time within 60 days of the filing of the proposed rule change, the

Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-SAPPHIRE-2024-28 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-SAPPHIRE-2024-28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or

withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-SAPPHIRE-2024-28 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024-22263 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-101156; File No. SR-SAPPHIRE-2024-29]

Self-Regulatory Organizations; MIAX Sapphire, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 404, Series of Option Contracts Open for Trading, To Amend the Short Term Options Program

September 24, 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 September 16, 2024, MIAX Sapphire, LLC ("Exchange") filed with the Securities and Exchange Commission ("Commission") a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Short Term Option Series Program in Interpretations and Policies .02 of Exchange Rule 404, Series of Option Contracts Open for Trading.

The text of the proposed rule change is available on the Exchange's website at <https://www.miaxglobal.com/markets/us-options/miax-sapphire/rule-filings>, at the Exchange's principal office, and at the Commission's Public Reference Room.

¹³ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁰ See *id.*

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Short Term Option Series Program in Interpretations and Policies .02 of Exchange Rule 404, Series of Option Contracts Open for Trading.³ Specifically, the Exchange proposes to expand the Short Term Option Series Program to permit the listing of two Monday expirations for options on SPDR Gold Shares ("GLD"), iShares Silver Trust ("SLV"), and iShares 20+ Year Treasury Bond ETF ("TLT") (collectively "Exchange Traded Products" or "ETPs").⁴ This is a competitive filing based on a similar proposal submitted by Nasdaq ISE, LLC ("ISE") and approved by the Securities and Exchange Commission ("Commission").⁵

Currently, as set forth in Interpretations and Policies .02 of Exchange Rule 404, after an option class has been approved for listing and trading on the Exchange as a Short Term Option Series,⁶ the Exchange may open

for trading on any Thursday or Friday that is a business day ("Short Term Option Opening Date") series of options on that class that expire at the close of business on each of the next five Fridays that are business days and are not Fridays in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire ("Friday Short Term Option Expiration Dates"). The Exchange may have no more than a total of five Short Term Option Friday Expiration Dates ("Short Term Option Weekly Expirations"). Further, if the Exchange is not open for business on the respective Thursday or Friday, the Short Term Option Opening Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that respective Thursday or Friday. Similarly, if the Exchange is not open for business on a Friday, the Short Term Option Expiration Date for Short Term Option Weekly Expirations will be the first business day immediately prior to that Friday.

Additionally, the Exchange may open for trading series of options on the symbols provided in Table 1 of Interpretations and Policies .02 of Exchange Rule 404 that expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days beyond the current week and are not business days in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire ("Short Term Option Daily Expirations").⁷ For those symbols listed in Table 1, the Exchange may have no more than a total of two Short Term Option Daily Expirations beyond the current week for each of Monday, Tuesday, Wednesday, and Thursday expirations, as applicable, at one time.

Proposal

At this time, the Exchange proposes to expand the Short Term Option Daily Expirations to permit the listing and trading of options on GLD, SLV, and TLT expiring on Mondays. The Exchange proposes to permit two Short

Term Option Expiration Dates beyond the current week for each Monday expiration at one time, and would update Table 1 in Interpretations and Policies .02 of Exchange Rule 404 for each of those symbols accordingly.

The proposed Monday GLD, SLV, and TLT expirations will be similar to the current Monday SPY, QQQ, and IWM Short Term Option Daily Expirations set forth in Interpretations and Policies .02 of Exchange Rule 404, such that the Exchange may open for trading on any Friday or Monday that is a business day (beyond the current week) series of options on GLD, SLV, and TLT to expire on any Monday of the month that is a business day and is not a Monday in which standard expiration options series, Monthly Options Series, or Quarterly Options Series expire, provided that Monday expirations that are listed on a Friday must be listed at least one business week and one business day prior to the expiration ("Monday GLD Expirations," "Monday SLV Expirations," and "Monday TLT Expirations") (collectively, "Monday ETP Expirations").⁸ In the event Short Term Option Daily Expirations expire on a Monday and that Monday is the same day that a standard expiration options series, Monthly Options Series, or Quarterly Options Series expires, the Exchange would skip that week's listing and instead list the following week; the two weeks would therefore not be consecutive. Today, Monday expirations in SPY, QQQ, and IWM similarly skip the weekly listing in the event the weekly listing expires on the same day in the same class as a standard expiration options series, Monthly Options Series, or Quarterly Options Series.

The interval between strike prices for the proposed Monday ETP Expirations will be the same as those currently applicable to the Short Term Option Series Program.⁹ Specifically, the Monday ETP Expirations will have a strike interval of (i) \$0.50 or greater for strike prices below \$100, and \$1 or greater for strike prices between \$100 and \$150 for all option classes that participate in the Short Term Option Series Program, (ii) \$0.50 for option classes that trade in one dollar increments and are in the Short Term Option Series Program, or (iii) \$2.50 or greater for strike prices above \$150.¹⁰ As

³ The Exchange notes that its affiliate exchanges, MIAX Options and MIAX Pearl, submitted substantively identical proposals.

⁴ Today, the Exchange permits the listing of two Wednesday expirations for options on GLD, SLV, and TLT. See Interpretations and Policies .02 of Exchange Rule 404.

⁵ See Securities Exchange Act Release No. 100837 (August 27, 2024), 89 FR 71770 (September 3, 2024) (SR-ISE-2024-21) (Notice of Filing of Amendment No. 1 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt Rules To Permit the Listing of Two Monday Expirations for Options on SPDR Gold Shares, iShares Silver Trust, and iShares 20+ Year Treasury Bond ETF).

⁶ The term "Short Term Option Series" is a series in an option class that is approved for listing and trading on the Exchange in which the series is opened for trading on any Monday, Tuesday, Wednesday, Thursday or Friday that is a business day and that expires on the Monday, Tuesday, Wednesday, Thursday, or Friday of the next business week, or, in the case of a series that is

listed on a Friday and expires on a Monday, is listed one business week and one business day prior to that expiration. If a Tuesday, Wednesday, Thursday or Friday is not a business day, the series may be opened (or shall expire) on the first business day immediately prior to that Tuesday, Wednesday, Thursday or Friday, respectively. For a series listed pursuant to this section for Monday expiration, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday. See Exchange Rule 100.

⁷ As set forth in Table 1 in Interpretations and Policies .02 of Exchange Rule 404, the Exchange currently only permits Wednesday expirations for USO, UNG, GLD, SLV, and TLT.

⁸ Today, GLD, SLV, and TLT may trade on Wednesdays. See *supra* note 4. They may also trade on Fridays, as is the case for all options series in the Short Term Option Series Program.

⁹ See Interpretations and Policies .02(e) of Exchange Rule 404.

¹⁰ *Id.*

is the case with other equity options series listed pursuant to the Short Term Option Series Program, the Monday ETP Expirations series will be P.M.-settled.

Pursuant to the Exchange's definition of the Short Term Option Series Program, if a Monday is not a business day, the series shall expire on the first business day immediately following that Monday.¹¹

Currently, for each option class eligible for participation in the Short Term Option Series Program, the Exchange is limited to opening thirty (30) series for each expiration date for the specific class.¹² The thirty (30) series restriction does not include series that are open by other securities exchanges under their respective weekly rules; the Exchange may list these additional series that are listed by other options exchanges.¹³ With the proposed changes, this thirty (30) series restriction would apply to Monday GLD, SLV, and TLT Short Term Option Daily Expirations as well. In addition, the Exchange will be able to list series that are listed by other exchanges, assuming they file similar rules with the Commission to list Monday ETP Expirations.

With this proposal, Monday ETP Expirations would be treated similarly to existing Monday SPY, QQQ, and IWM Expirations. With respect to standard expiration option series, Short Term Option Daily Expirations will be permitted to expire in the same week in which standard expiration option series on the same class expire.¹⁴ Not listing Short Term Option Daily Expirations for one week every month because there was a standard options series on that same class on the Friday of that week would create investor confusion.

Further, as with Monday SPY, QQQ, and IWM Expirations, the Exchange would not permit Monday ETP Expirations to expire on a business day in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire.¹⁵ Therefore, all Short Term Option Daily Expirations would expire at the close of business on each of the next two Mondays, Tuesdays, Wednesdays, and Thursdays, respectively, that are business days and are not business days in which standard expiration option series, Monthly Options Series, or Quarterly Options Series expire. The

Exchange believes that it is reasonable to not permit two expirations on the same day in which a standard expiration option series, Monthly Options Series, a Quarterly Options Series would expire because those options would be duplicative of each other.

The Exchange does not believe that any market disruptions will be encountered with the introduction of Monday ETP Expirations. The Exchange currently trades P.M.-settled Short Term Option Series that expire Monday for SPY, QQQ and IWM and has not experienced any market disruptions nor issues with capacity. In addition, the Exchange has not experienced any market disruptions or issues with capacity in expanding the three ETPs to the Wednesday expirations.¹⁶ Today, the Exchange has surveillance programs in place to support and properly monitor trading in Short Term Option Series that expire Monday for SPY, QQQ and IWM. Further, the Exchange has the necessary capacity and surveillance programs in place to support and properly monitor trading in the proposed Monday ETP Expirations.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.¹⁷ Specifically, the Exchange believes that its proposed rule change is consistent with Section 6(b)(5)¹⁸ requirements in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Similar to Monday expirations in SPY, QQQ, and IWM, the proposal to permit Monday ETP Expirations, subject to the proposed limitation of two expirations beyond the current week, would protect investors and the public interest by providing the investing public and other market participants more choice and flexibility to closely tailor their investment and hedging decisions in these options and allow for

a reduced premium cost of buying portfolio protection, thus allowing them to better manage their risk exposure.

The Exchange represents that it has an adequate surveillance program in place to detect manipulative trading in the proposed option expirations, in the same way that it monitors trading in the current Short Term Option Series for Monday SPY, QQQ and IWM expirations. The Exchange also represents that it has the necessary system capacity to support the new expirations. Finally, the Exchange does not believe that any market disruptions will be encountered with the introduction of these option expirations. As discussed above, the Exchange believes that its proposal is a modest expansion of weekly expiration dates for GLD, SLV, and TLT given that it will be limited to two Monday expirations beyond the current week. Lastly, the Exchange believes that its proposal will not be a strain on liquidity providers because of the multi-class nature of GLD, SLV, and TLT and the available hedges in highly correlated instruments.

The Exchange believes that the proposal is consistent with the Act as the proposal would overall add a small number of Monday ETP Expirations by limiting the addition of two Monday expirations beyond the current week. The addition of Monday ETP Expirations would remove impediments to and perfect the mechanism of a free and open market by encouraging Market Makers¹⁹ to continue to deploy capital more efficiently and improve market quality. The Exchange believes that the proposal will allow market participants to expand hedging tools and tailor their investment and hedging needs more effectively in GLD, SLV, and TLT as these funds are most likely to be utilized by market participants to hedge the underlying asset classes.

Similar to Monday SPY, QQQ, and IWM expirations, the introduction of Monday ETP Expirations is consistent with the Act as it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations

¹⁹ The term "Market Maker" or "MM" means a Member registered with the Exchange for the purpose of making markets in options contracts traded on the Exchange and that is vested with the rights and responsibilities specified in Chapter VI of the Exchange Rules. See Exchange Rule 100. The term "Member" means an individual or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of trading on the Exchange as an "Electronic Exchange Member" or "Market Maker." Members are deemed "members" under the Act. See Exchange Rule 100.

¹¹ See *supra* note 6.

¹² See Interpretations and Policies .02(a) of Exchange Rule 404.

¹³ *Id.*

¹⁴ See Interpretations and Policies .02(b) of Exchange Rule 404.

¹⁵ See Interpretations and Policies .02 of Exchange Rule 404.

¹⁶ See *supra* note 4.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

will allow market participants to purchase options on GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively, thus allowing them to better manage their risk exposure. Today, the Exchange lists Monday SPY, QQQ, and IWM Expirations.²⁰

The Exchange believes the Short Term Option Series Program has been successful to date and that Monday ETP Expirations should simply expand the ability of investors to hedge risk against market movements stemming from economic releases or market events that occur throughout the month in the same way that the Short Term Option Series Program has expanded the landscape of hedging.

There are no material differences in the treatment of Monday SPY, QQQ and IWM expirations compared to the proposed Monday ETP Expirations. Given the similarities between Monday SPY, QQQ and IWM expirations and the proposed Monday ETP Expirations, the Exchange believes that applying the provisions in Interpretations and Policies .02 of Exchange Rule 404 that currently apply to Monday SPY, QQQ and IWM expirations is justified. For example, the Exchange believes that allowing Monday ETP Expirations and monthly Exchange Traded Product expirations in the same week will benefit investors and minimize investor confusion by providing Monday ETP Expirations in a continuous and uniform manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard and as indicated above, the Exchange notes that the rule change is being proposed as a competitive response to filings submitted by ISE.²¹

While the proposal will expand the Short Term Options Expirations to allow Monday ETP Expirations to be listed on the Exchange, the Exchange believes that this limited expansion for Monday expirations for options on GLD, SLV, and TLT will not impose an undue burden on competition; rather, it will meet customer demand. The Exchange believes that market participants will continue to be able to expand hedging tools and tailor their investment and

hedging needs more effectively in GLD, SLV, and TLT.

Similar to Monday SPY, QQQ and IWM expirations, the introduction of Monday ETP Expirations does not impose an undue burden on competition. The Exchange believes that it will, among other things, expand hedging tools available to market participants and allow for a reduced premium cost of buying portfolio protection. The Exchange believes that Monday ETP Expirations will allow market participants to purchase options on GLD, SLV, and TLT based on their timing as needed and allow them to tailor their investment and hedging needs more effectively.

The Exchange does not believe that the proposal will impose any burden on intermarket competition, as nothing prevents the other options exchanges from proposing similar rules to list and trade Monday ETP Expirations. Further, the Exchange does not believe that the proposal will impose any burden on intra-market competition, as all market participants will be treated in the same manner under this proposal.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act²² and Rule 19b-4(f)(6) thereunder.²³

A proposed rule change filed pursuant to Rule 19b-4(f)(6) under the Act²⁴ normally does not become operative for 30 days after the date of its

filing. However, Rule 19b-4(f)(6)(iii)²⁵ permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay so that it may to permit the listing of Monday Short Term Daily Expirations for options on GLD, SLV, and TLT at the same time as ISE, whose substantively identical proposal was recently approved by the Commission.²⁶ The Commission believes that the proposed rule change presents no novel issues and that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the 30-day operative delay and designates the proposed rule change operative upon filing.²⁷

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)²⁸ of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-SAPPHIRE-2024-29 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.

²⁰ See Interpretations and Policies .02 of Exchange Rule 404.

²¹ See *supra* note 5.

²² 15 U.S.C. 78s(b)(3)(A)(iii).

²³ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

²⁴ 17 CFR 240.19b-4(f)(6).

²⁵ 17 CFR 240.19b-4(f)(6)(iii).

²⁶ See *supra* note 5.

²⁷ For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁸ 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to file number SR–SAPPHIRE–2024–29. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission’s internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–SAPPHIRE–2024–29 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁹

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024–22269 Filed 9–27–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101157; File No. SR–NYSEAMER–2024–45]

Self-Regulatory Organizations; NYSE American LLC; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Amend Rule 915 To Permit the Listing and Trading of Options on the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, the Grayscale Ethereum Mini Trust, and Any Trust That Holds Ether

September 24, 2024.

On July 23, 2024, NYSE American LLC 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 amend Rule 915 to permit the listing and trading of options on the Bitwise Ethereum ETF, the Grayscale Ethereum Trust, the Grayscale Ethereum Mini Trust, and any trust that holds ether. The proposed rule change was published for comment in the **Federal Register** on August 13, 2024.³ The Commission received no comment letters regarding the proposed rule change.

Section 19(b)(2) of the Act⁴ provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is September 27, 2024. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,⁵ designates November 11, 2024, as the date by which the Commission shall

either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSEAMER–2024–45).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁶

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024–22259 Filed 9–27–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101145; File No. SR–EMERALD–2024–26]

Self-Regulatory Organizations; MIAX Emerald, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX Emerald Fee Schedule

September 24, 2024.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on September 10, 2024, MIAX Emerald, LLC (“MIAX Emerald” or “Exchange”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 is filing a proposal to amend the MIAX Emerald Options Exchange Fee Schedule (the “Fee Schedule”) to amend Section 5(f), Member and Non-Member Technical Support Request Fee.

The text of the proposed rule change is available on the Exchange’s website at <https://www.miaxglobal.com/markets/us-options/all-options-exchanges/rule-filings>, at MIAX Emerald’s principal office, 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

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 100666 (Aug. 7, 2024), 89 FR 65957.

⁴ 15 U.S.C. 78s(b)(2).

⁵ *Id.*

⁶ 17 CFR 200.30–3(a)(31).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

²⁹ 17 CFR 200.30–3(a)(12), (59).

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section 5(f), Member and Non-Member Technical Support Request Fee, to now include in the fee to be assessed to Members³ and non-Members the cost of materials necessary for the Exchange's data center personnel to complete such technical support.

Background

The Exchange established the technical support request fee at the current hourly rate of \$200 per hour in 2019.⁴ The Exchange has an infrastructure comprised of low latency and ultra-low latency proximity solutions in several offsite data center locales offering universal access to all Exchange services via a single common connection across a variety of high speed network interfaces. The Exchange offers connectivity in and between its data center facilities and supports direct attachment of all network equipment or direct attached host systems of both Member and non-Member users of the Exchange.

Technical support refers to the use of Exchange engineers to perform on-site technical support tasks in the data centers for Members and non-Members, including the following support-related tasks: (1) power cycling of equipment; (2) patching and plugging in cabling and circuits; (3) observing, describing or reporting on display indicators; (4) configuration of hardware components instructed by the customer; (5) diagnosis and repairs as instructed by the customer; (6) swapping hardware components with Exchange-supplied or customer-supplied spares or upgrades; (7) troubleshooting heat related issues as instructed by customers; and (8)

returning defective equipment to the manufacturer or customer.

Proposal

The Exchange proposes to amend Section 5(f), Member and Non-Member Technical Support Request Fee, to now include in the fee to be assessed to Members and non-Members that request technical support the cost of materials necessary for the Exchange to complete such technical support in any of the Exchange's data centers. Some examples of materials for such technical support may include, but are not limited to, fiber optic cables, fiber spool, optical connectors (a device used to connect fiber optic cables), and patch cables.

The Exchange does not propose to assess any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support. The Exchange simply proposes to pass through the costs of the materials, if necessary, to complete such technical support. At least one competing exchange group similarly passes through the cost of materials to their customers when performing similar types of services in their data centers.⁵

2. Statutory Basis

The Exchange believes that the proposed fees are consistent with Section 6(b) of the Act⁶ in general, and furthers the objectives of Section 6(b)(4) of the Act⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among Members and other persons using any facility or system which the Exchange operates or controls. The Exchange also believes the proposed fees further the objectives of Section 6(b)(5) of the Act⁸ in that they are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general protect investors and the public interest and are not designed to permit

unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes it is reasonable to include in the cost of the technical support request fee the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support because the Exchange will only pass through the actual costs it is charged by external vendors of such materials. The Exchange will not pass through any amount in excess of the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support.

The Exchange believes the proposal is equitable and not unfairly discriminatory because the Exchange will pass through the costs of materials for requested technical support in an equal manner to all Members and non-Members that request technical support in the data centers that requires the Exchange to purchase materials to complete such request. The cost for materials provided by the Exchange's external vendors supplying the materials will be passed through directly to the Member or non-Member requesting technical support.

Furthermore, Members and non-Members are not required to use the technical support service. The Exchange offers this service as a convenience to all Members and non-Members. The Exchange believes the proposal is reasonable because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers, while paying for the cost of any materials the Exchange is required to purchase to complete such requests.

Additionally, at least one competing options exchange group passes through the cost of materials to their customers when performing similar types of services in their data centers.⁹

Accordingly, the Exchange believes the proposal is reasonable, equitable and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

³ "Member" means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed "members" under the Exchange Act. See the Definitions section of the Fee Schedule and Exchange Rule 100.

⁴ See Securities Exchange Act Release No. 85393 (March 21, 2019), 84 FR 11599 (March 27, 2019) (SR-EMERALD-2019-15). See also Fee Schedule, Section 5(f).

⁵ See Nasdaq PHLX LLC Rules, General 8 Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); The Nasdaq Stock Market LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary); Nasdaq ISE, LLC Rules, General 8: Connectivity, Section 1(d) Additional Charges/ Services (assessing \$264 per hour for Power Consulting Service plus the cost of materials, if necessary).

⁶ 15 U.S.C. 78f(b).

⁷ 15 U.S.C. 78f(b)(4).

⁸ 15 U.S.C. 78f(b)(5).

⁹ See *supra* note 5.

Intra-Market Competition

The Exchange believes the proposal to pass through the cost of any materials that are necessary for the Exchange's on-site engineers to complete the requested technical support will not result in any burden on intra-market competition that is not necessary or appropriate in furtherance of the purposes of the Act because the Exchange will only pass-through the actual costs it is charged by third-party external vendors for such materials. At least one competing options exchange group similarly passes along charges assessed to those exchanges by third-party external vendors supplying materials on behalf of that exchange group's customers.¹⁰

Additionally, the pass through of costs for materials will be assessed equally to all Members and non-Members who request technical support that requires the Exchange to purchase materials to complete the requested support. The Exchange notes that Members and non-Members are not required to use the service. The Exchange offers this service as a convenience to all Members and non-Members. The Exchange believes the proposal will not impose any burden on intra-market competition because it will permit both Members and non-Members to request the use of the Exchange's on-site data center personnel as technical support and as a convenience in order to test or otherwise assess the user's connectivity to the Exchange via its data centers.

Inter-Market Competition

The Exchange believes that the proposed changes will not result in any burden on inter-market competition that is not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, market participants are not forced to connect to and trade on all exchanges. The Exchange believes that the proposed pass-through of costs for materials for technical support will not cause any burden on inter-market competition because none of these changes impact other exchanges' ability to compete.

Accordingly, the Exchange does not believe its proposed fee changes impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act¹¹ and Rule 19b-4(f)(2)¹² thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<https://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include file number SR-EMERALD-2024-26 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to file number SR-EMERALD-2024-26. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<https://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and

printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR-EMERALD-2024-26 and should be submitted on or before October 21, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹³

Vanessa A. Countryman,
Secretary.

[FR Doc. 2024-22260 Filed 9-27-24; 8:45 am]

BILLING CODE 8011-01-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20645 and #20646; LOUISIANA Disaster Number LA-20005]

Presidential Declaration of a Major Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-4817-DR), dated 09/16/2024.

Incident: Hurricane Francine.

Incident Period: 09/09/2024 through 09/12/2024.

DATES: Issued on 09/16/2024.

Physical Loan Application Deadline Date: 11/18/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 06/16/2025.

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: Notice is hereby given that as a result of the President's major disaster declaration on 09/16/2024, applications for disaster loans may be submitted online using the

¹⁰ See *id.*

¹¹ 15 U.S.C. 78s(b)(3)(A)(ii).

¹² 17 CFR 240.19b-4(f)(2).

¹³ 17 CFR 200.30-3(a)(12).

MySBA Loan Portal <https://lending.sba.gov> or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes (Physical Damage and Economic Injury Loans): Ascension, Assumption, Lafourche, St. Charles, St. James, St. John The Baptist, St. Mary, Terrebonne.

Contiguous Parishes (Economic Injury Loans Only):

Louisiana: East Baton Rouge, Iberia, Iberville, Jefferson, Livingston, St. Martin, Tangipahoa

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.625
Homeowners without Credit Available Elsewhere	2.813
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere ...	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.250

The number assigned to this disaster for physical damage is 206458 and for economic injury is 206460.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024-22350 Filed 9-27-24; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20498 and #20499; ILLINOIS Disaster Number IL-20007]

Presidential Declaration of a Major Disaster for the State of Illinois

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Illinois (FEMA-4819-DR), dated 09/20/2024.

Incident: Severe Storms, Tornadoes, Straight-line Winds, and Flooding.

Incident Period: 07/13/2024 through 07/16/2024.

DATES: Issued on 09/20/2024.

Physical Loan Application Deadline Date: 11/19/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 06/20/2025.

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: Notice is hereby given that as a result of the President's major disaster declaration on 09/20/2024, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties (Physical Damage and Economic Injury Loans): Cook, Fulton, Henry, St. Clair, Washington, Will, Winnebago.

Contiguous Counties (Economic Injury Loans Only):

Illinois: Boone, Bureau, Clinton, Dekalb, DuPage, Grundy, Jefferson, Kane, Kankakee, Kendall, Knox, Lake, Madison, Marion, Mason, McDonough, McHenry, Mercer, Monroe, Ogle, Peoria, Perry, Randolph, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Warren, Whiteside.

Indiana: Lake.

Missouri: St. Louis.

Wisconsin: Green, Rock.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.375
Homeowners without Credit Available Elsewhere	2.688
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000

	Percent
Non-Profit Organizations with Credit Available Elsewhere ...	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.250

The number assigned to this disaster for physical damage is 20498C and for economic injury is 204990.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024-22354 Filed 9-27-24; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20662 and #20663; SAINT REGIS MOHAWK TRIBE Disaster Number NY-20017]

Presidential Declaration of a Major Disaster for Public Assistance Only for the Saint Regis Mohawk Tribe

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the Saint Regis Mohawk Tribe (FEMA-4818-DR), dated 09/20/2024.

Incident: Severe Storm and Flooding.
Incident Period: 08/08/2024 through 08/10/2024.

DATES: Issued on 09/20/2024.

Physical Loan Application Deadline Date: 11/19/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 06/20/2025.

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: Notice is hereby given that as a result of the President's major disaster declaration on 09/20/2024, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications online

using the MySBA Loan Portal <https://lending.sba.gov> or other locally announced locations. Please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

Primary Area: Saint Regis Mohawk Tribe.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	3.250

The number assigned to this disaster for physical damage is 206626 and for economic injury is 206630.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,
Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024-22284 Filed 9-27-24; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20358 and #20359; TEXAS Disaster Number TX-20013]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Texas

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 9.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Texas (FEMA-4781-DR), dated 05/23/2024.

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: 04/26/2024 through 06/05/2024.

DATES: Issued on 09/23/2024.

Physical Loan Application Deadline Date: 10/24/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 02/24/2025.

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 Private Non-Profit organizations in the State of Texas, dated 05/23/2024, is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to 10/24/2024. This declaration notice is further amended to include the following areas as adversely affected by the disaster.
Primary Counties: Hays.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,
Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024-22277 Filed 9-27-24; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20585 and #20586; CONNECTICUT Disaster Number CT-20001]

Presidential Declaration of a Major Disaster for the State of Connecticut

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA-4820-DR), dated September 20, 2024.

DATES: Issued on September 20, 2024.

Physical Loan Application Deadline Date: November 19, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 20, 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: Notice is hereby given that as a result of the President's major disaster declaration on September 20, 2024, applications for disaster loans may be submitted online using the MySBA Loan Portal <https://lending.sba.gov> or other locally

announced locations. Please contact the SBA disaster assistance customer service center by email at disastercustomerservice@sba.gov or by phone at 1-800-659-2955 for further assistance.

The following areas have been determined to be adversely affected by the disaster:

Incident: Severe Storm, Flooding, Landslides, and Mudslides.

Incident Period: August 18, 2024 through August 19, 2024.

Primary Counties (Physical Damage and Economic Injury Loans): Fairfield, Litchfield, New Haven
Contiguous Counties (Economic Injury Loans Only):

Connecticut: Hartford, Middlesex
Massachusetts: Berkshire, Hampden
New York: Dutchess, Putnam, Westchester

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	5.625
Homeowners without Credit Available Elsewhere	2.813
Businesses with Credit Available Elsewhere	8.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere ...	3.250
Non-Profit Organizations without Credit Available Elsewhere	3.250
For Economic Injury:	
Business and Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	3.250

The number assigned to this disaster for physical damage is 205856 and for economic injury is 205860.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,
Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024-22273 Filed 9-27-24; 8:45 am]

BILLING CODE 8026-09-P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20645 and #20646; LOUISIANA Disaster Number LA-20005]

Presidential Declaration Amendment of a Major Disaster for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of Louisiana (FEMA-4817-DR), dated 09/16/2024.

Incident: Hurricane Francine.

Incident Period: 09/09/2024 through 09/12/2024.

DATES: Issued on 09/23/2024.

Physical Loan Application Deadline Date: 11/18/2024.

Economic Injury (EIDL) Loan Application Deadline Date: 06/16/2025.

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 Louisiana, dated 09/16/2024, is hereby amended to include the following areas as adversely affected by the disaster:

Primary Parishes (Physical Damage and Economic Injury Loans): Jefferson. *Contiguous Parishes (Economic Injury Loans Only):*

Louisiana: Orleans, Plaquemines, St. Tammany.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024-22283 Filed 9-27-24; 8:45 am]

BILLING CODE 8026-09-P

DEPARTMENT OF STATE

[Public Notice: 12557]

Notice of Determinations; Culturally Significant Object Being Imported for Exhibition—Determinations: “Caspar David Friedrich: The Soul of Nature” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that a certain object being imported from abroad pursuant to an agreement with its foreign owner or custodian for temporary display in the exhibition “Caspar David Friedrich: The Soul of Nature” at The Metropolitan Museum of Art, New York, New York, and at possible additional exhibitions or venues yet to be determined, is of

cultural significance, and, further, that its temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator, Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Scott D. Weinhold,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024-22329 Filed 9-27-24; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice: 12559]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: “Living With the Gods: Art, Beliefs and Peoples” Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition “Living with the Gods: Art, Beliefs and Peoples” at the Museum of Fine Arts, Houston, in Houston, Texas, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

Reed Liriano, Program Coordinator,

Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA-5), Suite 5H03, Washington, DC 20522-0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Scott D. Weinhold,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2024-22382 Filed 9-27-24; 8:45 am]

BILLING CODE 4710-05-P

SUSQUEHANNA RIVER BASIN COMMISSION**Public Hearing**

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: The Susquehanna River Basin Commission will hold a public hearing on October 30, 2024. The Commission will hold this hearing in person and telephonically. At this public hearing, the Commission will hear testimony on the projects listed in the Supplementary Information section of this notice. The Commission will also hear any testimony on the proposed 2025 fee schedule. Such projects and actions are intended to be scheduled for Commission action at its next business meeting, tentatively scheduled for December 12, 2024, which will be noticed separately. The public should note that this public hearing will be the only opportunity to offer oral comments to the Commission for the listed projects and actions. The deadline for the submission of written comments is November 11, 2024.

DATES: The public hearing will convene on October 30, 2024, at 6:30 p.m. The public hearing will end at 9:00 p.m. or at the conclusion of public testimony, whichever is earlier. The deadline for submitting written comments is Tuesday, November 12, 2024.

ADDRESSES: This public hearing will be conducted in person and telephonically. You may attend in person at Susquehanna River Basin Commission, 4423 N. Front St., Harrisburg, Pennsylvania, or join by telephone at Toll-Free Number 1-877-304-9269 and then enter the guest passcode 2619070 followed by #.

FOR FURTHER INFORMATION CONTACT: Jason Oyler, General Counsel and Secretary to the Commission, telephone: (717) 238-0423 or joyler@srbc.gov.

The proposed 2025 Fee Schedule can be viewed on the Commissions website, under public participation: <https://www.srbc.gov/regulatory/public-participation/>.

Information concerning the project applications is available at the Commission's Water Application and Approval Viewer at <https://www.srbc.gov/waav>. Additional supporting documents are available to inspect and copy in accordance with the Commission's Access to Records Policy at www.srbc.gov/regulatory/policies-guidance/docs/access-to-records-policy-2009-02.pdf.

SUPPLEMENTARY INFORMATION: In addition to hearing any testimony on the proposed 2025 Fee Schedule, the public hearing will cover the following projects:

Projects Scheduled for Action

1. *Project Sponsor and Facility:* Chesapeake Appalachia, L.L.C. (Susquehanna River), Sheshequin Township, Bradford County, Pa. Application for surface water withdrawal of up to 4.000 mgd (peak day).

2. *Project Sponsor and Facility:* Coterra Energy Inc. (Tunkhannock Creek), Lenox Township, Susquehanna County, Pa. Application for renewal and modification of surface water withdrawal of up to 2.880 mgd (peak day) (Docket No. 20191201).

3. *Project Sponsor and Facility:* Coterra Energy Inc. (Tunkhannock Creek), Nicholson Township, Wyoming County, Pa. Application for renewal and modification of surface water withdrawal of up to 2.880 mgd (peak day) (Docket No. 20230903).

4. *Project Sponsor and Facility:* Dover Township, York County, Pa. Application for groundwater withdrawal of up to 0.144 mgd (30-day average) from Well 11.

5. *Project Sponsor and Facility:* East Cocalico Township Authority, East Cocalico Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.115 mgd (30-day average) from Well 2A

(Docket No. 19990901). *Source and service area are located in an Environmental Justice area.*

6. *Project Sponsor and Facility:* Edgewood by Sand Springs, LLC (Nescopeck Creek), Butler Township, Luzerne County, Pa. Applications for renewal of surface water withdrawal of up to 0.317 mgd (peak day) and consumptive use of up to 0.249 mgd (30-day average) (Docket No. 19980102).

7. *Project Sponsor:* The H&K Group. *Project Facility:* Penn/MD Materials, Fulton Township, Lancaster County, Pa. Applications for consumptive use of up to 0.024 mgd (peak day) and groundwater withdrawals (30-day averages) of up to 1.980 mgd from the Pit Sump, 0.004 mgd from the Primary and Secondary Well, and 0.011 mgd from the Tertiary Well.

8. *Project Sponsor:* New Enterprise Stone & Lime Co., Inc. *Project Facility:* Roaring Spring Quarry (Halter Creek 2), Taylor Township, Blair County, Pa. Applications for renewal and modification of consumptive use of up to 0.380 mgd (peak day) and surface water withdrawal of up to 0.288 mgd (peak day) (Docket No. 19940705 and Certificate of Registration No. GF-202204215).

9. *Project Sponsor:* New Enterprise Stone & Lime Co., Inc. *Project Facility:* Shippensburg Quarry, Southampton Township, Cumberland County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.065 mgd from the Transit Well and 0.020 mgd from the Quarry Well, and consumptive use of up to 0.150 mgd (peak day).

10. *Project Sponsor and Facility:* Newport Borough Water Authority, Oliver Township, Perry County, Pa. Application for renewal and modification of groundwater withdrawal of up to 0.096 mgd (30-day average) from Well 1 (Docket No. 20140908).

11. *Project Sponsor:* Pennsylvania Fish & Boat Commission. *Project Facility:* Benner Spring State Fish Hatchery, Benner Township, Centre County, Pa. Applications for groundwater withdrawals (30-day averages) of up to 0.720 mgd from Well 1 (renewal of Docket No. 19940701) and up to 0.311 mgd from Well 3.

12. *Project Sponsor and Facility:* Schuylkill County Municipal Authority, Butler Township, Schuylkill County, Pa. Application for renewal of groundwater withdrawal of up to 0.362 mgd (30-day average) from the Gordon Well (Docket No. 20090624). *Service area is located in an Environmental Justice area.*

13. *Project Sponsor and Facility:* Strasburg Lancaster County Borough

Authority, Strasburg Township, Lancaster County, Pa. Application for renewal of groundwater withdrawal of up to 0.275 mgd (30-day average) from the Fisher Well (Docket No. 19890107). *Service area is located in an Environmental Justice area.*

14. *Project Sponsor and Facility:* SWN Production Company, LLC (Susquehanna River), Great Bend Township, Susquehanna County, Pa. Application for renewal of surface water withdrawal of up to 2.000 mgd (peak day) (Docket No. 20191209).

15. *Project Sponsor and Facility:* Tallman Family Farms, L.L.C. (Wiconisco Creek), Washington Township, Dauphin County, Pa. Application for surface water withdrawal of up to 0.720 mgd (peak day).

16. *Project Sponsor:* Valley CC LLC. *Project Facility:* Valley Country Club, Sugarloaf Township, Luzerne County, Pa. Applications for renewal of groundwater withdrawals (30-day averages) of up to 0.090 mgd from the Shop Well and up to 0.090 mgd from the Pumphouse Well (Docket No. 20090632).

Opportunity To Appear and Comment

Interested parties may appear or call into the hearing to offer comments to the Commission on any business listed above required to be the subject of a public hearing. Given the nature of the meeting, the Commission strongly encourages those members of the public wishing to provide oral comments to pre-register with the Commission by emailing Jason Oyler at joyler@srbc.gov before the hearing date. The presiding officer reserves the right to limit oral statements in the interest of time and to control the course of the hearing otherwise. Access to the hearing via telephone will begin at 6:15 p.m. Guidelines for the public hearing are posted on the Commission's website, www.srbc.gov, before the hearing for review. The presiding officer reserves the right to modify or supplement such guidelines at the hearing. Written comments on any business listed above required to be the subject of a public hearing may also be mailed to Mr. Jason Oyler, Secretary to the Commission, Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pa. 17110-1788, or submitted electronically through <https://www.srbc.gov/meeting-comment/default.aspx?type=2&cat=7>. Comments mailed or electronically submitted must be received by the Commission on or before Tuesday, November 12, 2024, to be considered.

Authority: Public Law 91–575, 84 Stat. 1509 *et seq.*, 18 CFR parts 806, 807, and 808.

Dated: September 25, 2024.

Jason E. Oyler,

General Counsel and Secretary to the Commission.

[FR Doc. 2024–22344 Filed 9–27–24; 8:45 am]

BILLING CODE 7040–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 2020–0752]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Service Difficulty Report

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 2, 2024. The collection involves operators or repair stations report any malfunctions and defects to the Administrator. The information collected allows the FAA to evaluate its certification standards, maintenance programs, and regulatory requirements. It is also the basis for issuance of Airworthiness Directives designed to prevent unsafe conditions and accidents.

DATES: Written comments should be submitted by October 30, 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: Mark E. Williams by email at: Mark.E.Williams@FAA.gov; phone: (816) 329–4042.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this

information collection, including (a) Whether the proposed collection of information is necessary for FAA’s performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information.

OMB Control Number: 2120–0663.

Title: Service Difficulty Report.

Form Numbers: 8070–1, 8040–4.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 2, 2024 (89 FR 54951). This collection affects certificate holders operating under 14 CFR part 121, 125, 135, and 145 who are required to report service difficulties and malfunction or defect reports. The data collected identifies mechanical failures, malfunctions, and defects that may be a hazard to the operation of an aircraft. The FAA uses this data to identify trends that may facilitate the early detection of airworthiness problems. When defects are reported which are likely to exist on other products of the same or similar design, the FAA may disseminate safety information to a particular section of the aviation community.

Respondents: 36,000.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 5 Minutes.

Estimated Total Annual Burden: 3,000.

Issued in Oklahoma City, OK, on September 24, 2024.

Andrew Seliga,

Section Manager, Systems Management Branch/Data Governance & Information Support Tools, Flight Standards Service, Office of Aviation Safety, AFS–950.

[FR Doc. 2024–22272 Filed 9–27–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Department of Transportation (DOT), Federal Highway Administration (FHWA).

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA’s finding that it is appropriate to grant a Buy

America waiver to the Illinois Department of Transportation (IDOT) for the procurement of submersible pumps with non-domestic iron and steel components. Specifically, this waiver covers the procurement by IDOT of 4 main, submersible pumps with discharge capacity of 3,000 gallons per minute (gpm) each and 2 low flow submersible pumps with discharge capacity of 921 gpm each (“waiver items”), for the relocation of existing Pump Station No. 37.

DATES: The applicable date of the waiver is October 1, 2024.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Brian Hogge, FHWA Office of Infrastructure, 202–366–1562, or via email at Brian.Hogge@dot.gov. For legal questions, please contact Mr. David Serody, FHWA Office of the Chief Counsel, 202–366–1345, or via email at David.Serody@dot.gov. Office hours for FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**’s home page at: www.FederalRegister.gov and the Government Publishing Office’s database at: www.GovInfo.gov.

Background

FHWA’s Buy America regulation in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The FHWA also applies its Buy America requirements to predominantly steel and iron manufactured products and predominantly steel and iron components of manufactured products. This means that for all predominantly steel or iron materials, products, or components delivered to a project site for permanent incorporation into a highway project using Title 23, U.S.C. funds, all manufacturing processes, including application of a coating, must occur in the United States. FHWA’s Buy America regulation also provides for a waiver of the Buy America requirements when satisfactory quality domestic steel and iron products are not produced in the United States in sufficient and reasonably available quantities.

Background on the Waiver Items: IDOT requested a Buy America waiver for 4 main submersible pumps with a discharge capacity of 3,000 gpm each

and 2 low flow submersible pumps with a discharge capacity of 921 gpm each. IDOT requested a nonavailability waiver due to the inability to find domestic manufacturers who could produce a pump that has all predominantly iron and steel components in compliance with FHWA's Buy America requirements. The waiver items are estimated to cost \$300,000.

Background on the Project: The waiver items will be used in the relocation of the existing Pump Station No. 37 out of IL 176 over the US 41 bridge abutment and allow IDOT to provide a new pump station consistent with IDOT standards. The new pump station is designed to accommodate future pumping capacity to support the proposed US 41 at IL 176 interchange reconstruction reconfiguration.

Background on Waiver Request: Contracting agencies have historically faced difficulty in procuring Buy America-compliant submersible pumps.¹ Prior to submitting the waiver request, IDOT sought but failed to identify Buy America-compliant manufacturers for the waiver items over a multi-year period from 2017 to 2020. In 2017, IDOT contacted 12 pump manufacturers, with 4 not responding and the remaining 8 stating that they either do not manufacture submersible pumps with domestic steel components or that they could not otherwise comply with FHWA's Buy America requirements. IDOT contacted the same 12 manufacturers in 2020 as well as an additional 3 pump manufacturers. Out of these 15, 4 did not respond, 9 stated that they could not meet the design intent of the waiver items, and 2 responded that they could meet the design intent of the waiver items but could not comply with FHWA's Buy America requirements. Neither of those two manufacturers could ensure that all predominantly steel components would meet FHWA's Buy America requirements.

In accordance with section 122 of Title I of Division L of the Consolidated Appropriations Act, 2023 (Pub. L. 117–328), section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110–244), and 23 U.S.C. 313(g), the notice of waiver request was posted on FHWA's public facing web page on August 28, 2023, soliciting public comment on the intent to issue a waiver of the waiver items for a 15-day period.²

¹ For example, IDOT requested and received a waiver for the use of non-domestic main submersible pumps in 2012. See 77 FR 72433 (Dec. 6, 2022).

² <https://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=175>. The notice of waiver request was also posted to the DOT Made in

Comments to the Notice of Waiver Request: FHWA received comments from seven different commenters in response to the notice of waiver request. Three commenters broadly supported the waiver and two broadly opposed it. The two commenters opposing the waiver did not offer any specific information on the availability of Buy America-compliant products, nor did they suggest specific, additional actions that IDOT could take to maximize its use of goods, products, and materials produced in the United States.

The remaining two commenters represented two different pump manufacturers. One pump manufacturer incorrectly stated that the waiver items are subject to the manufactured product requirements of the Build America, Buy America Act (BABA), enacted as part of the Bipartisan Infrastructure Law (BIL) (Pub. L. 117–58). BIL, div. G sections 70901–27. Manufactured products permanently incorporated into a highway project using Title 23, U.S.C. funds are subject to FHWA's Buy America requirements, not BABA's manufactured product requirements.³ This commenter further stated that it anticipated producing BABA-compliant pumps in mid-2024 but did not state whether these pumps would be Buy America-compliant under FHWA's Buy America requirements at 23 CFR 635.410. The second pump manufacturer commented that it had the ability to produce Buy America-compliant pumps. On September 21, 2023, FHWA requested that this manufacturer provide a letter certifying and verifying that it could produce Buy America-compliant pumps. On October 10, 2023, the manufacturer submitted a

America website and Made in America website at <https://www.madeinamerica.gov/waivers/federal-financial-assistance/64ee24fcd9c662b02e0a782> on August 29, 2023.

³ Pursuant to BABA's manufactured product requirements, the manufactured product must be produced in the United States and must have 55 percent of its components, by cost, be mined, produced, or manufactured in the United States. BABA § 70912(6)(B). Under FHWA's Buy America requirements, which apply to iron, steel, and manufactured products, all predominantly steel or iron materials, products, or components must have all manufacturing processes, including application of a coating, occur in the United States; however, FHWA has otherwise waived the application of Buy America to manufactured products. The FHWA applies these Buy America requirements to iron, steel, and manufactured products, not the requirements of BABA. See BABA § 70917(a)–(b). For this reason, to be permanently incorporated in highway projects using title 23, U.S.C. funds, manufactured products must have all manufacturing processes of all predominantly steel or iron components occur in the United States. A manufactured product is not Buy America-compliant if it complies with BABA's manufactured product requirements but has foreign predominantly iron or steel components.

letter to IDOT, stating that it could produce the waiver items domestically. However, after additional outreach and discussion with that manufacturer, on January 16, 2024, IDOT informed FHWA that the manufacturer was unable to produce a Buy America-compliant version of the waiver items because the manufacturer could not produce a bare shaft for the pump domestically, meaning that it could not produce a pump where all predominantly iron or steel components were Buy America-compliant. Thus, no comments received in response to the notice of waiver request indicated that the waiver items are available domestically.

FHWA also consulted with the National Institute of Standards and Technology's Hollings Manufacturing Extension Partnership (NIST-MEP) through NIST-MEP's supplier scouting process to consult manufacturers from across the Nation. This search period ended in October 2023. This supplier scouting process also did not identify any companies that could provide compliant pumps.

Timing and Need for a Waiver: The existing Pump Station No. 37 was constructed in the 1930s and can only be accessed from northbound traffic on US 41, making maintenance of the station difficult. In addition, the dry pit is connected to the grade level space, making the entire station a hazardous classified location as there is a direct connection to the below grade pumping in the dry pit. The electrical and controls equipment are also located at grade level, which is also a hazardous classified location, and the electrical and controls equipment are not suitable for the hazardous location. These problems necessitate replacement of the existing station. IDOT further explained that the outlet pipe for the pump station is in very poor condition. Relocating the pump station will require the procurement of new pumps to accommodate future pumping capacity. The letting of the project has been postponed several times as IDOT has been unable to find Buy America-compliant pumps. If a waiver is not approved, the relocation of the pump station will not be able to proceed.

Assessment of Cost Advantage of a Foreign-Sourced Product: Under OMB 24–02, Agencies are expected to assess “whether a significant portion of any cost advantage of a foreign-sourced product is the result of the use of dumped steel, iron, or manufactured products or the use of injuriously subsidized steel, iron, or manufactured products” as appropriate before granting a public interest waiver. FHWA has concluded that this assessment is not

applicable to this waiver as this waiver is based on nonavailability rather than the cost disadvantage of domestically-sourced products.

Executive Order 14005: Executive Order (E.O.) 14005, entitled “Ensuring the Future is Made in All of America by All of America’s Workers,” provides that Federal Agencies should, consistent with applicable law, maximize the use of goods, products, and materials produced in, and services offered in, the United States. 86 FR 7475 (Jan. 28, 2021). Based on the information contained in the waiver request and the lack of responsive comments to the notice of waiver request identifying a domestic source for the waiver items, FHWA concludes that issuing a waiver is not inconsistent with E.O. 14005.

Finding and Request for Comments

Based on all the information available to the Agency, FHWA concludes that there are no Buy America-compliant versions of the waiver items and is waiving its Buy America requirements set forth at 23 U.S.C. 313 and 23 CFR 635.410 for the following products used by IDOT in the relocation of Pump Station No. 37: 4 main submersible pumps with discharge capacity of 3,000 gpm each and 2 low flow submersible pumps with discharge capacity of 921 gpm each. This finding only includes the specified pumps identified in the waiver request and supporting documents included on FHWA’s website.

This waiver is limited to applicable purchases by IDOT, IDOT’s contractors, or subcontractors (of whatever tier) of the waiver items for the Pump Station 37 Project. The waiver does not apply to purchases made for any other products or projects. The proposed waiver would be effective from the effective date of the final waiver through the period of performance and closeout of FHWA’s financial assistance for the project, which is estimated to be in October 2028.

IDOT and its contractors and subcontractors involved in the procurement of the relevant submersible pumps are reminded of the need to comply with the Cargo Preference Act in 46 CFR part 38, if applicable.

In accordance with the provisions of Section 117 of the SAFETEA-LU Technical Corrections Act of 2008 (Pub. L. 110–244), FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. FHWA invites public comment on this finding for an additional 5 days following the effective date of the finding. Comments may be submitted to

FHWA’s website via the link provided to the waiver page noted above.

Authority: 23 U.S.C. 313; Pub. L. 117–328; 23 CFR 635.410.

Kristin R. White,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2024–22278 Filed 9–27–24; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–OST–2024–0021]

Agency Requests for Approval of a New Information Collection: The Department of Transportation Title VI Program

AGENCY: Office of the Secretary (OST), Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT or Department) invites public comments about our intention to request the Office of Management and Budget’s (OMB) approval for an information collection for the Department’s activities conducted pursuant to Title VI of the Civil Rights Act of 1964. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Written comments should be submitted by November 29, 2024.

ADDRESSES: You may submit comments identified by Docket No. DOT–OST–2024–0021 through one of the following methods:

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

- *Mail or Hand Delivery*: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays. To ensure that someone is present to assist you, please call prior to visiting.

FOR FURTHER INFORMATION CONTACT: Chris Cialeo, Office of the General Counsel, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, (202) 366–8789 or christopher.cialeo@dot.gov.

SUPPLEMENTARY INFORMATION: Title VI states that “[n]o person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. 2000d.

To achieve this purpose, each Federal department and agency which provides financial assistance for any program or activity is authorized and directed by the Department of Justice (DOJ) to effectuate provisions of Title VI for each program or activity by issuing generally applicable regulations or requirements. The Department of Transportation (DOT) has issued its regulations implementing this DOJ mandate at 49 CFR part 21.

Pursuant to its Title VI regulations, DOT is responsible for ensuring that DOT-assisted programs and activities are carried out in a manner consistent with Title VI. The employment practices of a grant applicant, recipient, or sub-recipient are also covered under Title VI if the primary purpose of the DOT-supported program is to provide employment, or if those employment practices would result in discrimination against beneficiaries of DOT-assisted services and benefits. All project sponsors receiving financial assistance pursuant to a DOT-funded project shall not discriminate in the provision of services because of race, color, or national origin. This information collection will cover all Title VI information collections undertaken by DOT and its operating administrations (OAs) and would eliminate the need for different DOT OAs to submit individual Title VI information collection requests to OMB. Collection of Title VI information includes Title VI certifications and assurances, pre-award assessments, Title VI program plans, community participation plans, and compliance reviews. DOT’s Title VI implementing regulations and the Department of Justice (DOJ) regulation *Coordination of Non-discrimination in Federally Assisted Programs* provide for the collection of data and information from recipients (see 49 CFR 21.7(a), 21.9; 28 CFR 42.406, 42.407(a)).

We have characterized this as a new collection because it is the first time that the Department-wide clearance has been sought for the Department’s Title VI information collections, though Title VI information collections have been sought in the past by different OAs and for different grant programs. Upon OMB approval of this Title VI collection, DOT plans to terminate any duplicative OA collections that were previously approved separately. In addition, pursuant to the Department’s current Title VI Order (DOT Order 1000.12C), DOT will be collecting information pursuant to its Title VI-related activities that was not collected under the

preceding Title VI Order. Specifically, new information will include community participation plans and pre-award assessments, in addition to the Title VI plans and compliance reviews collected under the preceding Title VI Order that will continue to be collected under DOT Order 1000.12C. Because OAs are authorized by the Title VI Order to tailor their financial assistance application guidelines, the actual information collected may vary between OAs. A copy of the Department's proposed Title VI pre-award assessment template form is available for public comment in the docket.

To help commenters provide information that will better allow the Department to include the appropriate paperwork burden within this collection, we offer the following clarifications. A "collection of information," is defined as "the obtaining, causing to be obtained, soliciting, or requiring the disclosure to an agency, third parties or the public of information by or for an agency by means of identical questions posed to, or identical reporting, recordkeeping, or disclosure requirements imposed on, ten or more persons." 5 CFR 1320.3(c)(1). The activities that constitute the "burden" associated with a collection are defined in 5 CFR 1320.3(b)(1) as "the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency." Importantly, this burden is not necessarily the same as the entire regulatory burden for a program or an aspect of a program.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility, and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Respondents: Airports, cities, counties, ports, Metropolitan Planning Organizations, railroads, shipyards, States, transit agencies, and universities.

Estimated Annual Burden per Respondent: Burden hours are provided by OA based on the specific Title VI compliance activity. The total number listed is the number that would be required to complete all five identified activities (Title VI Assurances, Pre-

Award Assessments, Title VI Plans, Community Participation Plans, and Compliance Reviews). Because certain activities, such as Compliance Reviews and the Pre-Award Assessment Form, will not apply to every recipient every year, the actual burden per respondent is likely to be lower.

Federal Aviation Administration: 43 hours (1 hour for Title VI Assurances, 2 hours for Pre-Award Assessments, 20 hours for Title VI plans, 10 hours for Community Participation Plans, 10 hours for Compliance Reviews)

Federal Highway Administration: 138 hours (1 hour for Title VI Assurances, 5 hours for Pre-Award Assessments, 60 hours for Title VI plans, 40 hours for Community Participation Plans, 32 hours for Compliance Reviews)

Federal Motor Carrier Safety Administration: 13 hours (1 hour for Title VI Assurances, 3 hours for Pre-Award Assessments, 3 hours for Title VI plans, 3 hours for Community Participation Plans, 3 hours for Compliance Reviews)

Federal Railroad Administration: 209 hours (1 hour for Title VI Assurances, 8 hours for Pre-Award Assessments, 80 hours for Title VI plans, 80 hours for Community Participation Plans, 40 hours for Compliance Reviews)

Federal Transit Administration: 37 hours (1 hour for Title VI Assurances, 3 hours for Pre-Award Assessments, 16 hours for Title VI plans, 2 hours for Community Participation Plans, 15 hours for Compliance Reviews)

Maritime Administration: 163 hours (1 hour for Title VI Assurances, 22 hours for Pre-Award Assessments, 20 hours for Title VI plans, 40 hours for Community Participation Plans, 80 hours for Compliance Reviews)

National Highway Traffic Safety Administration: 141 hours (1 hour for Title VI Assurances, 40 hours for Pre-Award Assessments, 40 hours for Title VI plans, 60 hours for Community Participation Plans)

Office of the Secretary: 49 hours (1 hour for Title VI Assurances, 8 hours for Pre-Award Assessments, 25 hours for Title VI plans, 15 hours for Community Participation Plans)

Pipeline and Hazardous Materials Safety Administration: 16 hours (1 hour for Title VI Assurances, 7 hours for Pre-Award Assessments, 6 hours for Title VI plans, 2 hours for Community Participation Plans)

Estimated Total Annual Burden: 133,422 hours, Department-wide. A breakdown of the total burden by OA is included below.

Federal Aviation Administration: 59,800 hours

Federal Highway Administration: 7,314 hours

Federal Motor Carrier Safety Administration: 1,672 hours

Federal Railroad Administration: 6,360 hours

Federal Transit Administration: 10,508 hours

Maritime Administration: 15,948 hours

National Highway Traffic Safety Administration: 10,716 hours

Office of the Secretary: 2,940 hours

Pipeline and Hazardous Materials Safety Administration: 4,400 hours

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.49.

Issued in Washington, DC, on September 25, 2024.

Peter Constantine,

Assistant General Counsel for General Law.

[FR Doc. 2024-22302 Filed 9-27-24; 8:45 am]

BILLING CODE 4910-9X-P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT-OST-2023-0099]

Privacy Act of 1974; System of Records

AGENCY: Office of the Departmental Chief Information Officer, Office of the Secretary of Transportation, DOT.

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the United States Department of Transportation (DOT) intends to rename, update, and reissue an existing system of records notice currently titled "DOT/ALL 24 Departmental Office of Civil Rights (DOCR) System." This Notice is necessary for DOT records that are not covered by the Government-wide System of Records Notices (SORNs) for the Office of Personnel Management (OPM/GOVT-1) and the Equal Employment Opportunity Commission (EEOC/GOVT-1). OPM/GOVT-1 covers general personnel records pertaining to Federal employees. The EEOC/GOVT-1 covers equal employment opportunity records pertaining to claims by Federal employees and applicants for Federal employment who allege they have been discriminated against by a Federal agency under title VII of the Civil Act of 1964, as amended; section 15 of the Age Discrimination in Employment Act, section 501 of the Rehabilitation Act of 1973, as amended; and the Equal Pay Act. The DOT system known as the DOCR General Support System (GSS)

covers Disadvantaged Business Enterprise (DBE) appeal records and includes correspondence, inquiries, complaints, and appeals filed by individuals, small businesses, or representatives of individuals or small businesses who believe they have been subjected to prohibited discrimination or retaliation by a DOT federally assisted or federally conducted program or activity. Modification to DOT/ALL 24 is necessary due to updates, consolidation and processes used to manage the records in the system.

DATES: Submit comments on or before October 30, 2024. The Department may publish an amended Systems of Records Notice considering any comments received. This modified system will be effective immediately upon publication. The routine uses will be effective October 30, 2024.

ADDRESSES: You submit comments, identified by docket number DOT–OST–2023–0099 by any of the following methods:

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

- *Mail:* Department of Transportation Docket Management, Room W12–140, 1200 New Jersey Ave. SE, Washington, DC 20590.

- *Hand Delivery or Courier:* U.S. Department of Transportation, Office of the Secretary/Docket Operations, 1200 New Jersey Ave. SE, Suite W12–140, Washington, DC 20590–0001, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

- *Fax:* (202) 493–2251

- *Instructions:* You must include the agency name and docket number DOT–OST–2023–0099. All comments received will be posted with change to <https://www.regulations.gov>, including any personal information period. You may review the Department of Transportation’s complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit <https://DocketsInfo.dot.gov>.

Privacy Act: Anyone can search the electronic form of all comments received in any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT’s complete Privacy Act statement in the **Federal Register** published on November 16, 2011 (76 FR 71108–71111), or you may visit <https://www.regulations.gov>.

Docket: For access to the docket and any of its associated background information or comments, go to <https://www.regulations.gov>

www.regulations.gov and follow the online instructions. You may also contact a Privacy Act Representative at the street address listed above.

FOR FURTHER INFORMATION CONTACT: For questions contact Karyn Gorman, Departmental Chief Privacy Officer, Department of Transportation, S–83, Washington, DC 20590, Email: privacy@dot.gov, Tel. (202) 366–2140.

SUPPLEMENTARY INFORMATION:

Notice Updates

This notice updates the following categories: system name, system location, system manager(s) address, authorities for the maintenance of the system, the purpose, categories of individuals and categories of records, the record source, and routine uses of records maintained in the system, policies and practices for retention and disposal of records, administrative, technical and physical safeguards, and the records access procedures. The updates are substantive changes or amended to better clarify content in the previously published Notice.

Updates include editorial changes to simplify and clarify language, formatting, and text of the previously published Notice to align with the requirements of the Office of Management and Budget Memoranda (OMB) A–108 and to ensure consistency with other Notices issues by the department of Transportation.

Background

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of Transportation proposes to modify and reissue a Department of Transportation system of records notice titled “DOT/ALL 24 Departmental Office of Civil Rights System”. This notice covers the business processes used to protect records under the Privacy Act of 1974, Title VI and VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended the Age Discrimination Act of 1975, as amended, section 504 of the Rehabilitation Act of 1973, as amended; the American with Disability Act of 1990; the Equal Pay Act of 1963; the ADA Amendments Act of 2008, and the Genetic Information Nondiscrimination Act of 2008. The system is also used to document, investigate, and respond to complaints and inquiries related to DBE business cases and appeals. In addition, the system is used to document, track, investigate, and respond to civil rights complaints to ensure compliance with applicable laws and regulations.

DOT is updating this SORN to make the following substantive changes:

1. *System Name:* Updated to “DOT/ALL 24 Departmental Office of Civil Rights Records”.

2. *System Location:* Is being updated to reflect a change in cloud server. The previous cloud server was Micropact and is now Entellitrak hosted and maintained by Tyler Technologies, Inc.

3. *Authorities:* Are updated to include 49 CFR parts 23 and 26 to ensure disadvantaged business enterprise airport concessions are covered. The previous system or records did not include the additional authorities.

4. *Purpose:* Is updated to clarify how the data is used in the system under Civil Rights laws and regulations and for Disadvantage Business Enterprise and appeals.

5. *Categories of individuals:* Updated to better clarify the types of individuals covered in this system or records.

6. *Categories of Records:* Is updated to clarify and include information on additional type of records collected in the system such as complaints received from DOT employees, contractors, and the public.

7. *Records Source Categories:* Is updated to better identify the sources of information collected in the system for the purpose outlined in this notice.

8. *Routine Uses:* This notice modifies the routine uses by adding and updating the specific DOT General Blanket Routine Uses that apply specially to this system.

9. *Retention and Disposal:* This notice updates the policies and practices for retention and disposal of the records section to include a proposed records retention and disposition schedule.

10. *Administrative, Technical, and Physical Safeguards:* Are updated to better clarify the administrative, technical and safeguards of the records in the system.

11. *Records Access:* Updated to ensure individuals seeking copies of their records in the system submit and include the appropriate information to verify and obtain a copy of their records.

Privacy Act

The Privacy Act (5 U.S.C. 552a) governs how the Federal Government collects, maintains, and uses personally identifiable information (PII) in a System of Records. A “System of Records” is a group of any records under the control of a Federal agency from which information about individuals is retrieved by name or other personal identifier. The Privacy Act requires each agency to publish in the **Federal Register** a System of Records notice (SORN) identifying and describing each System of Record the agency maintains, including the

purposes for which the agency uses PII in the system, the routine uses for which the agency discloses such information outside the agency, and how individuals to whom a Privacy Act record pertains can exercise their rights under the Privacy Act (e.g., to determine if the system contains information about them and to contest inaccurate information). In accordance with 5 U.S.C. 552a(r), a report on the establishment of this System of Records has been sent to Congress and to the Office of Management and Budget.

SYSTEM NAME AND NUMBER:

Department of Transportation, DOT/ ALL 24 Departmental Office of Civil Rights Records.

SECURITY CLASSIFICATION:

Sensitive, Unclassified.

SYSTEM LOCATION:

Records are maintained by the DOT Departmental Office of Civil Rights, and DOT component civil rights offices. The Entellitrak system is hosted and maintained on a cloud server by Tyler Technologies, Inc, headquartered in 12901 Worldgate Drive, Suite 800, Herndon, Virginia 20170. The system owner is the Departmental Office of Civil Rights (DOCR), S-30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue W78 SE, Washington, DC 20590.

SYSTEM MANAGER(S):

Associate Director, Departmental Office of Civil Rights (DOCR), 1200 New Jersey Ave., Suite W78-340, Washington, DC 20590.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 13160, 42 U.S.C. 2000d *et seq.*, 42 U.S.C. 12101 *et seq.*, 42 U.S.C. 6101 *et seq.*; 29 U.S.C. 794; 49 U.S.C. 47113; 49 CFR parts 23 and 26.

PURPOSE(S) OF THE SYSTEM:

DOT Civil Rights personnel use the contact information, identification information, and descriptive details to document, investigate, and respond to civil rights complaints, inquiries, and Disadvantage Business Enterprise (DBE) appeals. Information in the system is also used to conduct reviews of Federally funded recipients to assess their compliance with civil rights laws. Appeals received from firm's are processed in the system that have been denied DBE certification or firms who are no longer eligible to participate in the DBE program. The process involves creating a profile for the firm. After a profile is created, letters are generated acknowledging that an appeal was received from the firm and notifying

recipients that the firm has appealed. Letters are sent to recipients requesting the complete administrative record that was used to deny/decertify the firm.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the public who have submitted inquiries, complaints, or appeals to DOT, alleging discrimination by DOT or by third parties pertaining to DOT Federally assisted or DOT Federally conducted programs or activities. DOT employees filing complaints pursuant to sections 504 and 508 of the Rehabilitation Act of 1973, as amended; and individuals who are the subjects of external civil rights inquiries, complaints, and appeals; and witnesses who are interviewed concerning same.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal contact information for individual complainants, complaint subjects, DBE appellants, and/or witnesses who are involved in particular discrimination claims, such as name, home address, email address, and home telephone number; Identification information and descriptive details about individual complainants, such as the last four digits of the complainant's Social Security Number, date of birth, race, color, national origin, sex, religion, age (40 or over), medical/disability documentation, sexual orientation, parental status, and/or genetic information; and complaints from the public regarding alleged discrimination by recipients and prime contractors. Additional records include records of civil rights discrimination inquiries, complaints, and appeals received from DOT employees and members of the public; including DOT employees, small businesses or representatives of these groups; records compiled during the investigation of the complaints and appeals; and records of responsive actions taken by DOT, including complaint information, statements, exhibits, reports and correspondence; records concerning certification appeals by disadvantaged business enterprises, including business name, contact information, and name of business owners.

RECORD SOURCE CATEGORIES:

DOT employees, DBE firms, state and local recipients, and the general public.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a

portion of the records of information contained in this system may be disclosed outside of DOT as a routine use pursuant to 5 U.S.C. 552a(b)(3), as follows:

System Specific Routine Uses:

To the United States Department of Justice (DOJ), including United States Attorney's Offices, or other Federal agency conducting litigation or in proceedings before any court, adjudicative or administrative body, when it is necessary to the litigation and one of the following is a party to the litigation or has an interest in such litigation:

1. DOT or any component thereof;
2. Any employee of DOT in his/her official capacity;
3. Any employee of DOT in his/her individual capacity where the DOJ or DOT has agreed to represent the employee; or
4. The United States, or any agency thereof, is a party to the litigation or has an interest in such litigation and DOT determines that the records are both necessary and relevant to the litigation and the use of such records is compatible with the purpose for which DOT collected the records.
5. To recipients of Federal financial assistance, witnesses, or consultants if necessary to assist DOCR in resolving civil rights complaint(s) or in obtaining additional information or expert advice relevant to the investigation of a civil rights complaint.
6. To an adjudicative body before which DOT or one of its components is authorized to appear or to an individual or entity designated by the DOT or otherwise empowered to resolve or mediate disputes to the extent that the disclosure is necessary and relevant to the litigation or alternative dispute resolution (ADR).
7. To a party, counsel, representative or witness in a litigation or ADR if relevant and necessary to the litigation or ADR.

Department Routine Uses:

8. To a congressional office in response to an inquiry from that congressional office made at the request of the individual to whom the record pertains.
9. One or more records from a system of records may be disclosed routinely to the National Archives and Records Administration in records management inspections being conducted under the authority of 44 U.S.C. 2904 and 2906.
10. DOT may disclose records from this system, as a routine use, to contractors and their agents, experts, consultants, and others performing or working on a contract, service, cooperative agreement, or other

assignment for DOT, when necessary to accomplish an agency function related to this system of records.

11. To appropriate agencies, entities, and persons when (1) DOT suspects or has confirmed that there has been a breach of the system of records; (2) DOT has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, DOT (including its information systems, programs, and operations), the Federal (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with DOT's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

12. To another Federal agency or Federal entity, when DOT determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in an electronic database and in paper files. Certain records are maintained only in paper files, for example, financial documents, photographs, and audio recordings.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the complainant's, inquirers, or DBE appellant's name or case number, address, telephone number, or email address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records will be held in accordance with the following records schedules: Disadvantaged Business Enterprise Division Appeals—DAA-0398-2019-0008-0001, Temporary, Destroy/delete 6 years after cutoff date unless needed longer for business use. Affirmed Denials/De-certifications, DAA-0398-2019-0008-0002, Temporary, Destroy/delete 6 years after cutoff date unless needed longer for business use. Remand or Reversed Denials/De-certifications, DAA-0398-2019-0008-0003, Temporary, Destroy/delete 6 years after cutoff date unless needed longer for business use. Untimely Appeals, DAA-0398-2019-0008-0004, Temporary,

Destroy/delete 6 years after cutoff date unless needed longer for business use. Challenged Appeals, DAA-0398-2019-0008-0005, Temporary, Destroy/delete 6 years after cutoff date unless needed longer for business use. iComplaints records are maintained in accordance General Record Schedule 2.3, Employee Relations Records, EEO discrimination complaint case files; Item 110: DAA-GRS-2018-0002-0012, Informal Process: Temporary. Destroy 3 years after resolution of case, but longer retention is authorized if required for business use. Item 111, DAA-GRS-2018-0002-0013, Informal Process: Temporary. Destroy 7 years after resolution of case, but longer retention.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Electronic files are stored in secure, password-protected databases. Records made part of the appeal are kept in a secure electronic folder and access is limited to those who have a need to know in accordance with their official duties. Users must sign a Rules of Behavior document prior to being granted access to the electronic systems. Users are required to complete the DOT Cybersecurity Awareness training annually. Any paper files and system-generated reports containing PII are labeled as containing PII and are stored in locked file cabinets and/or in a locked file room. Files are only accessed by the system administrator, authorized Civil Rights personnel in DOCR, and in each DOT component on a need to-know basis.

RECORD ACCESS PROCEDURES:

Individuals seeking notification of whether this system of records contains information about them should address written inquiries to the System Manager at the address identified in "System Manager and Address" above. If an individual believes more than one component maintains Privacy Act records concerning him or her, the individual may submit the request to the Departmental Freedom of Information Act Office, U.S. Department of Transportation, Room W94-122, 1200 New Jersey Ave. SE, Washington, DC 20590, ATTN: FOIA/Privacy Act request. When seeking records about yourself from this system of records or any other departmental system of records your request must conform with the Privacy Act regulations set forth in 49 CFR part 10. You must sign your request, and your signature must either be notarized or submitted under 28 U.S.C. 1746, a law that permits statements to be made under penalty of

perjury as a substitute for notarization and include the following:

If executed outside the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)." If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)."

While no specific form is required, you may obtain forms for this purpose from the Chief Freedom of Information Act Officer, <https://www.transportation.gov/foia> or 202.366.4542. In addition, provide the following:

- An explanation of why you believe the Department would have information on you;
- Identify which component(s) of the Department you believe may have the information about you;
- Specify when you believe the records would have been created and include the system ID and name of this system of records notice;
- Provide any other information that will help the FOIA staff determine which DOT component agency may have responsive records; and

If your request is seeking records pertaining to another living individual, you must include a statement from that individual certifying his/her agreement for you to access his/her records. Without this bulleted information the component(s) may not be able to conduct an effective search, and your request may be denied due to lack of specificity or lack of compliance with applicable regulations.

CONTESTING RECORD PROCEDURES:

See "Records Access Procedures" above.

NOTIFICATION PROCEDURES:

See "Records Access Procedures" above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

Pursuant to subsection (k)(2) of the Privacy Act (5 U.S.C. 552a), because this system will contain investigatory material compiled for law enforcement purposes, a Notice of Proposed Rulemaking (NPRM) is pending to revise DOT's Privacy Act regulations (49 CFR part 10, Appendix, part II) to exempt this system from the requirements of the following Privacy Act subsections, for the reasons stated in the proposed revision: (c)(3) (Accounting of Certain Disclosures), (d)

(Access to Records), (e)(4)(G), (H), and (I) (Agency Requirements), and (f) (Agency Rules) to the extent that DOCR contains investigatory material compiled for law enforcement purposes.

HISTORY:

A full notice of this system of records, DOT/ALL 24—Departmental Office of Civil Rights System, was published in the Federal Register on November 16, 2011(76 FR 71108)

Issued in Washington, DC.

Karyn Gorman,

Departmental Chief Privacy Officer.

[FR Doc. 2024–22310 Filed 9–27–24; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to the Reporting of Suspected Tax Law Violations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the 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. Currently, the IRS is soliciting comments concerning the burden related to the reporting of suspected tax law violations.

DATES: Written comments should be received on or before November 29, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Please include, “OMB Number: 1545–1960—Public Comment Request Notice” in the Subject line.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Reporting of suspected tax law violations.

OMB Number: 1545–1960.

Document Number: Form 3949–A.

Abstract: Form 3949–A is used by certain taxpayer/investors wishing to report alleged tax violations. The form has been designed to capture the essential information needed by IRS for an initial evaluation of the report. Submission of the information included on the form is entirely voluntary.

Current Actions: There is no change in the burden previously approved by OMB. This request is to extend the current approval for another 3 years.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 215,000.

Estimated Time per Respondent: 15 min.

Estimated Total Annual Burden Hours: 53,750.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or

included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: September 25, 2024.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2024–22311 Filed 9–27–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Extension of Information Collection Request Submitted for Public Comment; Comment Request on Burden Related to the Qualified Severance of Trusts

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the 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. Currently, the IRS is soliciting comments concerning the burden related to the guidance regarding a qualified severance of a trust.

DATES: Written comments should be received on or before November 29, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andrés García, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to pra.comments@irs.gov. Please include, “OMB Number: 1545–1902—Public Comment Request Notice” in the Subject line.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form and instructions should be directed to Ronald J. Durbala, at (202) 317–5746, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at RJoseph.Durbala@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Qualified Severance.

OMB Number: 1545–1902.

Document Number: TD 9348, TD 9421.

Abstract: TD 9438 contains final regulations providing guidance regarding the qualified severance of a trust for generation-skipping transfer (GST) tax purposes under section

2642(a)(3) of the Internal Revenue Code (Code), which was added to the Code by the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). TD 9421 contains final regulations providing guidance regarding the GST tax consequences of the severance of a trust in a manner that is effective under state law, but that does not meet the requirements of a qualified severance under section 2642(a)(3) of the Code.

Current Actions: There is no change in the collections of information previously approved by OMB. However, IRS is requesting updates to properly account for both burdens addressed in TD 9348 and TD 9421. This request is to extend the current approval for another 3 years.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 700.

Estimated Time per Respondent: 2 hrs., 1 min.

Estimated Total Annual Burden Hours: 1,402.

The following paragraph applies to all the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained if their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Desired Focus of Comments: The Internal Revenue Service (IRS) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of

information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Approved: September 25, 2024.

Ronald J. Durbala,

IRS Tax Analyst.

[FR Doc. 2024-22305 Filed 9-27-24; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

United States Mint

Notification of Citizens Coinage Advisory Committee Public Meeting— October 15, 2024 (Day One) and October 16, 2024 (Day Two)

ACTION: Notice of meeting

Pursuant to United States Code, title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for October 15–16, 2024.

Date: October 15, 2024, and October 16, 2024.

Time: October 15, 2024: 9 a.m. to 4 p.m. (ET).

October 16, 2024: 8 a.m. to 4 p.m. (ET).

Location: United States Mint; 801 9th Street NW, Washington, DC 20220.

Subject: Review and discussion of the candidate designs for the 2026 Semiquincentennial Dime; review and discussion of the candidate designs for the five 2026 Semiquincentennial Quarters; review and discussion of the candidate designs for the 2026 Semiquincentennial Half Dollar; review and discussion of the candidate designs for the 2026–2028 American Eagle Platinum Proof Coins; possible review and discussion of candidate designs for other proposed 2026 Semiquincentennial products; and possible review and discussion of candidate designs for the Emmett Till and Mamie Till-Mobley Congressional Gold Medal.

Interested members of the public can either attend the meeting in person or may watch the meeting live stream on the United States Mint's YouTube Channel at <https://www.youtube.com/user/usmint>. To watch the meeting live, members of the public may click on the "October 15, 2024" and "October 16, 2024" icons under the Live Tab for the specific day. If you will be attending in

person, please contact Jennifer Warren (Jennifer.warren@usmint.treas.gov) no later than October 8, 2024, to fill out a form to be placed on the list for entry into the Mint Headquarters Building.

Members of the public should call the CCAC HOTLINE at (202) 354-7502 for the latest updates on meeting time and access information.

The CCAC advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals; advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made; and makes recommendations with respect to the mintage level for any commemorative coin recommended. Members of the public interested in attending the meeting in person will be admitted into the meeting room on a first-come, first-serve basis, as space is limited. In addition, all persons entering a United States Mint facility must adhere to building security protocols. This means they must consent to the search of their persons and objects in their possession while on government grounds and when they enter and leave the facility are prohibited from bringing into the facility weapons of any type, illegal drugs, drug paraphernalia, or contraband. The United States Mint Police Officer conducting the search will evaluate whether an item may enter into or exit from a facility based upon Federal law, Treasury policy, United States Mint policy, and local operating procedures, and all prohibited and unauthorized items will be subject to confiscation and disposal. Members of the public will need to fill out a background clearance form and will need the day of the meeting to provide a government id (e.g., driver's license) to enter the building.

For members of the public interested in watching on-line, this is a reminder that the remote access is for observation purposes only. Members of the public may submit matters for the CCAC's consideration by email to info@ccac.gov.

For Accommodation Request: If you require an accommodation to watch the CCAC meeting, please contact the Office of Equal Employment Opportunity by October 8, 2024. You may submit an email request to Reasonable.Accommodations@usmint.treas.gov or call 202-354-7260 or 1-888-646-8369 (TTY).

FOR FURTHER INFORMATION CONTACT:

Jennifer Warren, United States Mint Liaison to the CCAC; 801 9th Street NW, Washington, DC 20220; or call 202–354–7208.

(Authority: 31 U.S.C. 5135(b)(8)(C))

Eric Anderson,

Executive Secretary, United States Mint.

[FR Doc. 2024–22247 Filed 9–27–24; 8:45 am]

BILLING CODE 4810–37–P

UNIFIED CARRIER REGISTRATION PLAN**Sunshine Act Meetings**

TIME AND DATE: October 3, 2024, 1:00 p.m. to 3:00 p.m., Eastern Time.

PLACE: The meeting will take place at the Arizona Grand Resort and Spa, 8000 South Arizona Grand Parkway, Phoenix, Arizona 85044. This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll), Meeting ID: 938 2658 1402, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is <https://kellen.zoom.us/j/93826581402>.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Finance Subcommittee (the “Subcommittee”) will continue its work in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda**I. Call to Order—UCR Finance Subcommittee Chair**

The UCR Finance Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

The agenda will be reviewed, and the Subcommittee will consider adoption of the agenda.

Ground Rules

Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Subcommittee Minutes From the July 17, 2024, Meeting—UCR Finance Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the July 17, 2024, Subcommittee meeting will be reviewed. The Subcommittee will consider action to approve.

V. 2026 Registration Fee Update—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will provide an update on the 2026 registration fees.

VI. Revenues From 2023 and 2024 Registration Fees—UCR Depository Manager

The UCR Depository Manager will review the revenues received from the 2023 and 2024 plan year registration fees.

VII. 2022 Financial Audit Update—UCR Finance Subcommittee Chair and UCR Depository Manager

The UCR Finance Subcommittee Chair and UCR Depository Manager will provide an update on UCR’s 2022 Financial Audit.

VIII. Recommendation of the Finance Subcommittee for the Selection of External Auditor To Audit the Unified Carrier Registration Plan Depository for the Year Ended December 31, 2023—UCR Finance Subcommittee Chair and UCR Depository Manager

For Discussion and Possible Action

The UCR Finance Subcommittee Chair and UCR Depository Manager will provide an update on the selection of an audit firm to conduct the 2023 external audit. The Subcommittee may take action to recommend to the UCR Board the engagement of a specific external auditor to audit the Unified Carrier Registration Plan Depository for the year ended December 31, 2023.

IX. 2025 Administrative Fund Budget—UCR Finance Subcommittee Chair and UCR Depository Manager

For Discussion and Possible Subcommittee Action

The UCR Finance Subcommittee Chair and Depository Manager will discuss the 2025 proposed administrative fund budget. The Subcommittee may take action to recommend to the UCR Board a 2025 administrative fund budget.

X. Other Business—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

XI. Adjourn—UCR Finance Subcommittee Chair

The UCR Finance Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, September 25, 2024 at: <https://plan.ucr.gov>.

CONTACT PERSON FOR MORE INFORMATION:

Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305–3783, eleaman@board.ucr.gov.

Alex B. Leath,

Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2024–22550 Filed 9–26–24; 4:15 pm]

BILLING CODE 4910–YL–P

UNIFIED CARRIER REGISTRATION PLAN**Sunshine Act Meetings**

TIME AND DATE: October 4, 2024, 2:00 p.m. to 4:00 p.m., Eastern Time.

PLACE: The meeting will take place at the Arizona Grand Resort and Spa, 8000 South Arizona Grand Parkway, Phoenix, Arizona 85044. This meeting will be accessible via conference call and via Zoom Meeting and Screenshare. Any interested person may call (i) 1–929–205–6099 (US Toll) or 1–669–900–6833 (US Toll), Meeting ID: 939 9338 3453, to listen and participate in this meeting. The website to participate via Zoom Meeting and Screenshare is <https://kellen.zoom.us/j/93993383453>.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED: The Unified Carrier Registration Plan Education and Training Subcommittee (the “Subcommittee”) will continue its work

in developing and implementing the Unified Carrier Registration Plan and Agreement. The subject matter of this meeting will include:

Proposed Agenda

I. Call to Order—UCR Education and Training Subcommittee Chair

The Subcommittee Chair will welcome attendees, call the meeting to order, call roll for the Subcommittee, confirm whether a quorum is present, and facilitate self-introductions.

II. Verification of Publication of Meeting Notice—UCR Executive Director

The UCR Executive Director will verify the publication of the meeting notice on the UCR website and distribution to the UCR contact list via email followed by the subsequent publication of the notice in the **Federal Register**.

III. Review and Approval of Subcommittee Agenda and Setting of Ground Rules—UCR Education and Training Subcommittee Chair

For Discussion and Possible Subcommittee Action

The Subcommittee Agenda will be reviewed, and the Subcommittee will consider adoption.

Ground Rules

➤ Subcommittee action only to be taken in designated areas on agenda.

IV. Review and Approval of Subcommittee Minutes from the July 24, 2024 Subcommittee Meeting—UCR Education and Training Subcommittee Chair

For Discussion and Possible Subcommittee Action

Draft minutes from the July 24, 2024 Subcommittee meeting will be reviewed. The Subcommittee will consider action to approve.

V. Project Development—UCR Education and Training Subcommittee Chair

The Subcommittee Chair will discuss the development of several key projects. The projects that will be discussed

include the development of the educational audit certificate program, the optimization and redesign of the website, and the creation of a video explaining the purpose and value of the UCR Plan and the National Registration System it operates.

VI. Other Business—UCR Education and Training Subcommittee Chair

The Subcommittee Chair will call for any other items Subcommittee members would like to discuss.

VII. Adjournment—UCR Education and Training Subcommittee Chair

The Subcommittee Chair will adjourn the meeting.

The agenda will be available no later than 5:00 p.m. Eastern time, September 26, 2024 at: <https://plan.ucr.gov>.

CONTACT PERSON FOR MORE INFORMATION:

Elizabeth Leaman, Chair, Unified Carrier Registration Plan Board of Directors, (617) 305-3783, eleaman@board.ucr.gov.

Alex B. Leath,
Chief Legal Officer, Unified Carrier Registration Plan.

[FR Doc. 2024-22555 Filed 9-26-24; 4:15 pm]

BILLING CODE 4910-YL-P



FEDERAL REGISTER

Vol. 89

Monday,

No. 189

September 30, 2024

Part II

Department of Agriculture

Rural Utilities Service

7 CFR Part 5001

OneRD Guarantee Loan; Final Rule

DEPARTMENT OF AGRICULTURE**Rural Utilities Service****7 CFR Part 5001**

[Docket No. RUS–19–Agency–0030]

RIN 0572–AC63

OneRD Guarantee Loan

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, Rural Utilities Service, USDA.

ACTION: Final rule; request for comments.

SUMMARY: Rural Development’s Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, agencies of the United States Department of Agriculture (USDA), collectively referred to as the Agency in this document, are publishing this final rule for the OneRD Guarantee Loan Program (OneRD). The intent of this rule is to make necessary revisions to the policy and procedures which will strengthen oversight and management of the growing Community Facilities (CF), Water and Waste Disposal (WWD), Business and Industry (B&I), and Rural Energy for America (REAP) guarantee portfolios. This action is part of a continuing effort by the Agency to improve customer service for its lenders and create a more efficient work process for its staff.

DATES:

Effective date: This final rule is effective November 29, 2024.

Comments due date: Comments must be submitted on or before October 30, 2024.

ADDRESSES: You may submit comments, identified by docket number RUS–19–Agency–0030 and Regulatory Information Number (RIN) number 0572–AC63 through <https://www.regulations.gov>.

Instructions: All submissions received must include the Agency name and docket number or RIN for this rulemaking. All comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to <https://www.regulations.gov>.

Additional information about Rural Development and its programs is available on the internet at <https://www.rd.usda.gov>.

FOR FURTHER INFORMATION CONTACT:

Susan L. Woolard, Regulations Management Division, Rural

Development Innovation Center, U.S. Department of Agriculture, 1400 Independence Ave. SW, Stop 1522, Washington, DC 20250; telephone 202–720–9631; email susan.woolard@usda.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

The Rural Housing Service (RHS), the Rural Business-Cooperative Service (RBCS), and the Rural Utilities Service (RUS), agencies of the USDA Rural Development mission area, hereinafter collectively referred to as the Agency, published a final rule with comment on July 14, 2020 (85 FR 42494) that created a unified guaranteed loan platform for enhanced delivery of four existing guaranteed loan programs: Community Facilities (CF) administered by RHS; Water and Waste Disposal (WWD) administered by RUS; and Business and Industry (B&I) and Rural Energy for America (REAP) administered by RBCS. The final rule was effective on October 1, 2020, and Rural Development began operating under the new guaranteed loan platform on that date.

Collectively, Rural Development’s guaranteed loan programs work to assist in building and maintaining sustainable rural communities. Through the public comment period and monthly office hours with lenders and staff, the Agency has solicited feedback on the requirements and policies contained in the rule implemented on October 1, 2020. The Agency has identified areas for revision or clarification that are amended with this final rule with comment. This OneRD final rule with comment incorporates revisions intended to simplify, clarify, improve, expand, and enhance the delivery of the four guaranteed loan programs.

II. Summary of Changes to Regulation**1. § 5001.3 Definitions**

a. The definition of “affiliate” is updated to provide additional information on affiliation determination and include a reference to 13 CFR 121.03.

b. The definition of “agricultural producer” is updated to include additional information regarding what constitutes agricultural operations income for the calculation of the five-year average for eligibility determinations. Additional information on the location of an agricultural producer for eligibility determinations is also added.

c. The definition of “collateral” is updated to include assignments of relevant agreements as acceptable collateral.

d. The definition of “Debt Collection Improvement Act” is updated to correct the title of the act and provide additional information on the Debt Collection Improvement Act of 1996.

e. The definition of “delinquency” is updated to provide additional information on how this term is used in the Part.

f. The definition of “energy efficient equipment and systems” is updated to include clear demonstration of energy efficiency as an application requirement.

g. The definition of “federal debt” is updated to include additional information on the Debt Collection Improvement Act of 1996.

h. The definition of “guarantor” is updated to include responsibility for repayment as an undertaking of a guarantor.

i. The definition of “hospital” is updated to include additional information on Certification Numbers.

j. The definition of “hybrid” is updated to include additional information and an example on the eligibility of hybrid systems.

k. The definition of “local owner” is updated to include information on what constitutes a normal commuting area.

l. The definition of “matching funds” is updated to include the percentage of matching funds required to be eligible for a REAP guaranteed loan.

m. The definition of “natural resource value-added product” is updated to provide non-definitive examples of eligible and ineligible projects.

n. The definition of “professional service” is updated to include that a loan finder fee is not considered a professional service under the Part.

o. The definition of “refurbished” is updated to provide an example of an acceptable refurbishment and also to provide information on what is considered as ineligible.

p. The definition of “renewable energy system (RES)” is updated to include information on items that are not considered RES.

q. The definition of “retrofitting” is updated to include examples of eligible projects.

r. The definition of “rural and rural area” is updated to include additional information to identify ineligible areas, define rural-in-character determinations as project specific determinations, provide additional information on “strings” or areas that are attached to the urbanized area by a contiguous area of urbanized blocks, and to specify that applications cannot be approved subject to meeting rural area requirements.

s. The definition of “simple payback” is updated to include additional

information on items to include in the calculation and calculating shared meter proration.

t. The definition of “small business” is updated to include additional information on average net income, net worth thresholds and to update the size standard to meet the new Small Business Administration’s definition.

u. The definition of “total project costs” is updated to include additional information on ineligible project costs and retrofitting for existing RES.

v. The definition of “underserved communities” is updated to expand on populations that should be considered for awarding of priority points.

2. Section 5001.9 Standards for Financial Information

a. The Agency added language at § 5001.9(a) to reinforce that the loan is the lender’s, and their standard operating procedures apply.

b. “For those situations,” is added to § 5001.9(b) to clarify the subject of the last sentence.

c. At § 5001.9(c) additional language is added to provide information on the use of tax returns as financial statements and their suitability for eligibility determinations.

3. Section 5001.101 Introduction

a. § 5001.101(a) is amended to add “. . . through 5001.119 . . .” to include all four program areas.

b. § 5001.101(f) is added to identify the location in the regulation of eligible and ineligible uses of funds respectively.

4. Section 5001.102 Project Eligibility—General

a. To direct REAP applicants to refinancing information specific to the REAP program, language is added to § 5001.102(d).

b. § 5001.102(d)(1) is modified to provide further clarification on refinancing limits on debts owed to another creditor and (d)(2) provides an expanded description of “better rates or repayment terms”.

c. “Special conditions and limitations on loans” and “Loan Guarantees for Water, Wastewater, and Essential Community Facilities Loans” is added to paragraph 5001.102(d)(3) to further identify sections 333 and 306(a)(24)(C), respectively, of the Consolidated Farm and Rural Development Act.

d. § 5001.102(d)(4)(iii) is modified to provide additional information for loans where debt refinancing is the majority purpose.

e. § 5001.102(d)(5) is modified to specify program applicability, lender’s responsibility for providing the

requested information and update information on total debt service coverage ratio as the current language implies an acceptable ratio that is not intended.

5. Section 5001.103 Eligible CF Projects and Requirements

a. Assisted living facilities are added to § 5001.103(a)(1) to identify them, in certain situations, as health care facilities.

b. § 5001.103(a)(3) is updated to include eligibility requirements for business incubators (when not inherently commercial), thrift stores, and fairgrounds, agricultural exposition centers, farmers markets, food distribution and food banks.

c. § 5001.103(b)(1) is updated to include information on public use requirements of Veterans of Foreign Wars and American Legion post facilities.

d. § 5001.103(d) is added to provide limitations on leased space in a CF project.

e. § 5001.103(e) is added to provide the documentation necessary when the project is to otherwise improve an essential community facility through the purchase of an existing facility.

6. Section 5001.104 Eligible WWD Projects and Requirements

a. Introductory paragraph is updated to correct regulatory references and remove duplication.

b. § 5001.104(a) is updated to better describes eligible WWD projects.

c. § 5001.104(a)(1) is updated by removing “To construct, enlarge, extend, or otherwise improve the following types of facilities: . . .” as those actions are eligible uses of funds and not types of projects.

d. Remove § 5001.104(a)(2) as these items are listed at § 5001.121(b)(10) “Eligible use of loan funds”. The duplication has caused confusion.

7. Section 5001.105 Eligible B&I Projects and Requirements

a. § 5001.105(b)(7) is updated to add examples of eligible agricultural production projects.

b. § 5001.105(b)(14) is updated to include additional information on what constitutes a leasehold improvement for this part and to provide further security enhancements.

c. § 5001.105(b)(15)(i)(D) is updated to include the timing of agreements with retail and institutional clients in regard to locally or regionally produced agricultural products.

d. § 5001.105(b)(20) is updated to include information on independent living facilities’ eligibility for a guarantee.

e. § 5001.105(b)(22) (vii) is updated to expand on the demonstration of technical merit for energy projects.

f. § 5001.105(d) is updated to add information on balance sheets used to show that capital and equity requirements are met.

g. § 5001.105(d)(1)(iii) is updated to reflect the correct owner-contributed capital calculation.

h. § 5001.105(d)(6) is deleted and the content moved to § 5001.452(b)(8)(iii)(X) as this certification was not intended to be separate from the lender’s certification required as part of the documents submitted for issuance of the loan note guarantee.

8. Section 5001.106 Eligible REAP—Renewable Energy System (RES) Projects and Requirements

§ 5001.106(e)(2) is updated to include how a non-response in an area of a technical report will be scored.

9. Section 5001.108 Eligible REAP—Energy Efficient Equipment and Systems (EEE) Projects and Requirements

The introductory paragraph for § 5001.108 is updated to include that EEE projects may be located in rural or non-rural areas as long as the energy efficient equipment of systems are used for agricultural production or processing in accordance with this part.

10. § 5001.115 Ineligible Projects—General

a. § 5001.115(l) is updated to provide additional information to clarify when telephone systems may be considered as an eligible project.

b. § 5001.115(n) is updated to provide additional information to clarify when owner-occupied housing may be considered for funding.

b. § 5001.115(r) is updated to provide additional information to religious organizations on items that may cause their project to be deemed ineligible.

11. § 5001.116 Neligible CF Projects

a. § 5001.116(b) is updated to add a reference to § 5001.103(d) for eligibility of commercial enterprises leasing space in an eligible CF project.

b. § 5001.116(e) is updated to include characteristics of ineligible purchase transactions.

12. § 5001.121 Eligible Uses of Loan Funds

a. § 5001.121(a)(2) is updated to include the installed conduit is not essential to the operation of the eligible essential community facility or service to be financed and to add an example.

b. § 5001.121(a)(3)(iv) is updated to clarify that guaranteed loan proceeds

may be used to pay interim financing in full, if used, and that payment in full includes interest on that interim financing.

c. § 5001.121(b) is revised in its entirety to classify eligible uses of funds as those that must be part of a construction project and those that are non-construction. Additionally, the purchase and installation of RES for use by an eligible facility, the use of up to 10 percent of project funds to construct, improve, or acquire broadband infrastructure, and professional service fees, such as engineering or environmental services and preplanning evaluation procedures are added as eligible uses of funds. Additional information regarding the purchase of land and/or rights, including water rights is added as well as providing clarification on payment of interim financing, limiting initial operating expenses to newly constructed facilities and clarifying that purchase of equipment must include installation and is not for the purpose of increasing inventory is also included.

d. § 5001.121(d)(14)(vi) is added to provide additional information on what is considered refinancing under the REAP program.

13. § 5001.121 *Eligible Uses of Loan Funds*

a. § 5001.121(c)(6) is updated to provide additional flexibility to the programs.

b. § 5001.121(d) is updated to clarify what the percentage includes.

c. § 5001.121(d)(14) is updated to add information that paying interim financing is not considered refinancing.

14. § 5001.122 *Ineligible Uses of Loan Funds*

a. § 5001.122(k) is updated to include as an additional ineligible use of loan funds any costs for RES and/or EEI projects that are used to improve a vehicle's ability to propel itself.

b. § 5001.122(l) is updated to clarify that a former owner may remain as an employee of the business during a reasonable transition period and to align the language with the definition of conflict of interest.

c. § 5001.122(n) is added to include lease payments as ineligible uses of funds.

15. § 5001.126 *Borrower Eligibility*

a. § 5001.126 (a) and (a)(1) are updated to clarify that the borrower must own and retain control of the project at all times under all ownership structures.

b. § 5001.126(c)(2) is updated to notify lenders that they are required to certify in writing that their borrower is unable

to afford commercial credit at reasonable rates and terms without the guarantee.

c. § 5001.126(d)(3)(iii) is updated to reference the definition of citizen and to clarify that applications will not be approved, nor will conditional commitments be issued subject to meeting the citizenship requirement.

d. § 5001.126(d)(4) is updated to further ensure benefit to U.S. residents.

e. § 5001.126(e)(1) is updated to provide more specificity on eligible borrower entity types.

f. § 5001.126(e)(2) is updated to clarify the timing of when and how long a borrower must own or control a project and the site for the project to at the time of application or no later than guaranteed loan closing and for the term of the guaranteed loan.

16. § 5001.127 *Borrower Ineligibility Conditions*

a. § 5001.127(a) is updated to specify that the 20 percent ownership interest in the borrower does not apply to passive investors and expands on delinquent debt under a repayment plan.

b. § 5001.127(a)(4) is updated to add that lenders must check SAM exclusions at <https://sam.gov> to ensure compliance with 2 CFR 180.300.

c. § 5001.127(d) is updated to include a prohibition on projects receiving income from marijuana operations.

d. § 5001.127(f) is updated to specify that lender's directors, stockholders, or other owners that are officers, directors, stockholders, or other owners of the borrower without management control or ownership of less than 5% must recuse themselves from the decision-making process associated with the guaranteed loan.

17. § 5001.130 *Lender Eligibility Requirements*

a. § 5001.130(a)(3) is updated to reduce risk and meet the requirements of 31 U.S.C. 3354.

b. § 5001.130(c)(2) is updated to include instructions on how non-regulated lending entities may apply for approved lender status.

c. § 5001.130(c)(4) is updated to provide additional information on what an approved lender renewal review will include.

d. § 5001.130(c)(4)(iv) is updated to provide additional information to lenders that have not been active in the Agency's guaranteed loan program or whose loans have caused a loss to the Agency on approved lender status renewal.

e. § 5001.130(c)(4)(v) is added to notify lenders that the renewal term are for a period of 5 years.

f. § 5001.130(d)(2) is updated to provide non-regulated lending entities serving Tribal trust lands additional guidance on submittal of information needed for applications to be determined as approved lenders.

g. § 5001.130(d)(4) is updated to provide non-regulated lending entities serving Tribal trust lands information on what will be considered during the approved lender renewal review.

h. § 5001.130(d)(4)(v) is added to notify lenders that renewals are for a period of 5 years.

18. § 5001.131 *Lender's Agreement*

Section 5001.131 is updated to include that approval as a lender under one program is approval for all programs covered under this part, that non-regulated lenders approval expires January 31st of the fifth year after the date of Agency approval and that only one lenders agreement will be issued for each lending entity based on their tax identification number. This paragraph is also updated to include the requirement that a lending entity continue to service their outstanding loan guarantees made under this part even if they fail to renew its lenders agreement and loses its approved lender status.

19. § 5001.132 *Maintenance of Approved Lender Status*

a. § 5001.132(a)(4) is updated to clarify that a non-regulated lending entity that fails to renew its approval status within 5 years from the execution of the lender's agreement will lose its approved status.

b. § 5001.132(b) is updated to include that revocation of approved lender status may apply to the entire entity, specific branches, or personnel as appropriate. This addition also requires the lender to revoke the level II eAuthentication privileges of all individuals included in the revocation notice.

20. § 5001.140 *Cooperative Stock/ Cooperative Equity*

a. § 5001.140(a)(4) is updated to include that in event of default if the stock is not sufficient to satisfy the debt, the borrower is fully liable for the entire debt regardless of the success or failure of the cooperative; the lender will maximize recovery; and, that DCIA may impose significant restrictions on delinquent Federal debtors.

b. § 5001.140(b) is updated to include that in event of default if the stock is not sufficient to satisfy the debt, the borrower is fully liable for the entire debt regardless of the success or failure of the cooperative; the lender will maximize recovery; and, that DCIA may

impose significant restrictions on delinquent Federal debtors.

c. § 5001.140(d)(3) is updated to include that in event of default if the stock is not sufficient to satisfy the debt, the borrower is fully liable for the entire debt regardless of the success or failure of the cooperative; the lender will maximize recovery; and, that DCIA may impose significant restrictions on delinquent Federal debtors.

21. § 5001.141 *New Markets Tax Credit*

a. The title is updated to New Markets Tax Credit Program. The introductory paragraph is updated to reinforce that requests for loan guarantees that include NMTC are subject to all applicable program eligibility requirements, credit analysis and due diligence as required by 7 CFR part 5001. Additional information is provided on the treatment of tax benefit or loss of tax benefits in the servicing actions of a guaranteed loan.

b. § 5001.141(b)(iii) is updated to clarify leveraged lender entity requirements.

c. § 5001.141(b)(6) is updated to include guidance for QALICB's and their owners regarding guarantees of the guaranteed loan as stipulated in § 5001.204.

d. § 5001.141(b)(14) is added to inform applicants that they NMTC structure must be approved by the Agency.

22. § 5001.202 *Lender's Credit Evaluation*

a. The introductory paragraph is updated to provide additional information to lenders on timing of application submittal and completion of the lender's internal credit evaluation process as part of a complete application package. The update also includes a requirement for the lender's credit evaluation to include a written review and comment on the "Five Cs" of credit as outlined in § 5001.202(b)(1) through (5).

b. § 5001.202(a) is updated to include reference to the lender's responsibility to evaluate the relationships between all associated parties in the event of affiliated entities.

c. § 5001.202(b)(6)(iii) is amended to add that any steps taken or proposed to address any financial or industry weakness must be reasonable and adequately addressed.

d. § 5001.202(b)(6)(iv) is updated to include additional guidance on borrower projections and substantiation of increases of revenues, profit margins or profitability.

e. § 5001.202(b)(6)(iv) is updated to include the source of the cash flow in the analysis of the operational cash flow when lenders are requesting the loan note guarantee prior to project completion.

23. § 5001.203 *Appraisals*

a. The introductory paragraph is updated to include, "... as determined by the approval official." to indicate who determines appraisal acceptability. Additionally, information on the handling of value attributed to business valuation or as a going concern and discounting is added. For applications that include an existing facility, the Agency is including that it is expected that the appraiser will physically visit the property unless otherwise approved by the Agency approval official, as these "desktop products" are not reliable and present the potential for additional valuation risk to the Agency.

b. § 5001.203(b) is updated to provide additional assurances during the loan underwriting review process.

c. § 5001.203(c) is updated to incorporate the language from § 5001.203(c)(1)(i).

d. § 5001.203(c)(1) is removed. The language from the current § 5001.203(c)(1)(i) is incorporated into § 5001.203(c). The current language in § 5001.203(c)(1)(ii) is not necessary as the Agency's expectations are adequately covered in previous language.

e. § 5001.203(d) (1) is updated to allow for other than a State Certified General Appraiser when approved by the Agency as some project types are unique enough that a qualified appraiser may not be available.

f. § 5001.203(f) is updated to require immediate notification to the Agency if potential contamination is observed or identified.

g. § 5001.203(h) is updated to reiterate that appraisal fees are eligible project costs, and that the Agency does not pay for appraisals at the time of application but that servicing appraisals will be handled in accordance with 7 CFR 5001 subpart F.

24. § 5001.205 *General Project Monitoring Requirements*

a. § 5001.205(a)(4) is added to include compliance with section 70914 of the Build America, Buy America Act within the Infrastructure Investment and Jobs Act (Pub. L. 117–58).

b. § 5001.205(b)(1) is updated to include compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to ensure that all property transactions are conducted accordingly.

c. § 5001.205(e)(1)(i) is removed and the information combined with § 5001.205(e)(1) as a separate (i) was not necessary.

d. § 5001.205(e)(2)(iii) is updated to include the requirement that the lender must provide evidence of sufficient cash flow to complete the project construction, including contingencies for cost overruns, plus working capital during the business start-up period.

e. § 5001.205(e)(2)(iv) is updated to include the requirement that, in all cases, borrower equity must be injected prior to any guaranteed loan funds.

f. § 5001.205(e)(2)(vii) is updated so that the credit underwriting of the independent technology development firm is not limited only to renewable energy projects, but may include energy efficiency, renewable chemical, and biobased manufacturing projects.

25. § 5001.206 *Compliance With USDA Departmental Regulations, Policies, and Other Federal Laws*

Section 5001.206(b) is updated to include compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as a requirement if the proposed project requires the acquisition of real property or will displace people from their homes, business, or farms, and Section 70914 of the Build America, Buy America Act within the Infrastructure Investment and Jobs Act, and 31 U.S.C. 3354 Do Not Pay Initiative.

Subpart D

26. § 5001.301 *Beginning the Application Process*

Section 5001.301(a) is updated in its entirety to reflect current application submittal practices.

27. § 5001.303 *Applications for Loan Guarantee*

Section 5001.303(c)(15) is updated to include the entire title of SEC Form 10–K.

28. § 5001.307 *Specific Application Requirements for REAP Projects*

Section 5001.307(b) is updated to include clarification on application documentation requirements for rural small businesses and agriculture operations owned by Tribes.

28. § 5001.315 *Application Evaluation and Award Provisions*

a. § 5001.315(b) is updated to include the word "complete" to describe applications that the Agency will review.

b. § 5001.315(c)(1) is updated to include the word "priority" to better describe scoring.

c. § 5001.315(e)(2) is updated to include notification in writing when their application is withdrawn from further funding consideration.

29. § 5001.319 REAP Project Priority Point System

a. The introductory paragraph is updated to add, “. . . and subject to the availability of funds . . .” to state when the Agency will compete each complete and eligible application for RES, EEI and EEE projects.

b. § 5001.319(b)(1)(i) is updated to include when priority points will be awarded for retrofitting RES projects and how off-the-grid and direct-use projects will be awarded priority points.

c. § 5001.319 (b)(2)(i) is updated to include information on calculating the percentage of energy being replaced, whether it is categorized a replacement or generation. This does not change the underlying calculation but provides clarification.

d. § 5001.319 (b)(2)(i)(A) is updated to include a requirement for documentation to show that the borrower entity incurred the cost of the historical energy to be replaced and what may be considered in the calculation. This does not change the underlying calculation but provides clarification.

e. § 5001.319(b)(2)(ii) is updated to add information on RES projects that are not projecting to increase the amount of renewable energy generated and that if documentation of prior energy usage is not provided the project will be scored as an energy generation project.

f. § 5001.319(b)(2)(iii) is updated to add “vendor certification” as acceptable documentation of energy savings by the installation of the EEI project.

g. § 5001.319(d) is updated to clarify the meaning of “received and accepted”.

h. § 5001.319(e) is updated to specify that an existing business must be in operation for at least one full year, not simply a year since legal business formation.

i. § 5001.319(f)(1) is updated to add, for clarity, that RES include replacement, generation, and direct-use RES projects.

j. § 5001.319(g)(6) is updated to clarify that the United States Census Bureau information to determine population living in poverty is for the last 30 years.

Subpart E

30. § 5001.401 Interest Rate Provisions

Section 5001.401 is updated to include that in the event of an interest rate swap, the Agency’s guarantee can only cover principal and interest and

does not cover any fees related to the swap. A requirement for the lender to provide the Agency with an overall effective interest rate charged to the borrower in the swap transaction is also added.

31. § 5001.402 Term Length, Loan Schedule, and Repayment

Section 5001.402(b)(2) is updated to provide additional information to lenders on Agency requirements regarding loan amortizations including requirements, that balloon payments are not acceptable except in some loan servicing cases and that payments must be amortized to maximize successful loan repayment and may vary by business type or company cash flow.

32. § 5001.406 Guaranteed Loan Amounts

Section 5001.406(c) is updated to place a limit on total guarantor loans.

Section 5001.406(d) is updated to include that borrowers must demonstrate evidence of a financial contribution in the project of at least 25 percent of total eligible project costs. Federal grant funds, if authorized by the grantor, may be used as the financial contribution.

33. § 5001.408 Participation or Assignment of Guaranteed Loan

Section 5001.408(a)(5) is updated to include a clarification of default and that lenders using the multi-note system may sell the guarantee on the secondary market for a specific note once that note is fully disbursed.

34. § 5001.450 General

a. § 5001.450(b)(1) is updated to add, “. . . during the loan approval process” to provide information on when approval of a parity or junior lien position request must be approved by the Agency. A statement regarding where to find the requirements for guaranteed loans to purchase cooperative stock was also added.

b. § 5001.450(c)(1) is updated to include language on requesting the payment of interest up to 180 days past the most recent delinquency effective date.

c. § 5001.450(c)(1)(iii) is updated to provide lenders with information on requesting extensions of accrued interest and that approved collection efforts that extend beyond 180 days will be limited to 90 days of accrued interest payments from the Agency.

d. § 5001.450(c)(2) is updated to add “. . . and provide the Agency with a copy.” to provide information for the lender on Agency notification of holders in the event of interest termination.

35. § 5001.452 Loan Closing and Conditions Precedent to Issuance of Loan Note Guarantee

a. § 5001.452(a) is updated to add that if at a later date it is discovered that all conditions of the conditional commitment had not been met prior to loan closing that full enforceability of the guarantee may be compromised.

b. § 5001.452(b)(8)(iii)(U) is updated to include that “. . . or will perform . . .” may be part of the lender’s certification of steady state operating level.

c. § 5001.452(b)(8)(iii)(W) is added to include certification of compliance with American Iron and Steel and Build America, Buy America requirements for applicable WWD projects.

d. § 5001.452(b)(8)(iii)(X) is added to include certification that, for B&I projects, the capital/equity requirements of the Conditional Commitment were met.

e. § 5001.452(c) is updated to add that a permission to operate letter from the energy off-taker is required.

36. § 5001.454 Guarantee Fee

a. To ensure that the correct guarantee fee is applied, the opening paragraph to § 5001.454 is updated to include that the guarantee fee rate applied will be the rate as established in the **Federal Register** for the fiscal year in which a guaranteed loan is obligated.

b. § 5001.454(b) is updated to include that once the guarantee is obligated, the guarantee fee rate in effect at the time of obligation will remain in place even if the guarantee fee rate changes before the loan note guarantee is issued.

c. § 5001.454(d)(5) is updated to provide additional information on what constitutes an additional market for existing local business.

Subpart F—Servicing Provisions

37. § 5001.505 Collateral Inspection and Release

Section 5001.505(b)(3) is revised to add additional information to further specify requirements of an arm’s length transaction.

38. § 5001.510 Subordination of Lien Position

Section 5001.510(b)(3) is updated to include additional information on discounting of collateral when determining sufficient collateral coverage.

39. § 5001.516 Protective Advances

a. § 5001.516(c) is updated to inform lender that payment of real estate taxes is not considered a protective advance and does not require Agency approval.

b. § 5001.516(d) is updated to inform lenders that it is their responsibility to ensure that protective advances will be secured by the collateral of the guaranteed loan.

40. § 5001.517 Liquidation

a. § 5001.517(c)(1) is updated to include items that may be used to establish the lender's ownership of the guaranteed loan promissory note and related security instruments.

b. § 5001.517(c)(2) is updated to include additional requirements of the liquidation plan including: transaction history for the loan; if the interest rate was a variable rate, the lender must include documentation of changes to the agreed upon base rate and when the changes in the loan rate became effective; and explanation of any special accommodations that were made.

c. § 5001.517(c)(6)(i) is updated to include that a copy of the appraisal or valuation will be provided to the Agency with the liquidation plan or as soon as it is available.

d. § 5001.517(c)(10) is updated to include a non-exhaustive list of examples of liquidation expenses that may be incurred.

e. § 5001.517(c)(11) is updated to include: a non-exhaustive list of possible protective advances; that protective advances may be made to maintain services or address unique situations with proper justification; and non-Agency approved advances of funds will not be guaranteed.

f. § 5001.517(e)(1)(i) is updated to add "actively marketing the collateral." Additionally, consideration of submitting a final loss claim is added as a possible next action if the lender is unable to sell the collateral.

41. § 5001.521 Loss Calculations and Payment

Section 5001.521(d)(2) is updated to include information to borrowers and lenders on project development issues that could reduce any loss claim payable.

The Agency also plans to correct minor spelling, grammatical and capitalization errors. All changes to appendices C, D and E to Subpart D of Part 5001 correct spelling, grammatical or capitalization errors.

III. Executive Orders and Acts

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches to maximize net benefits

(including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule has been determined to be not significant for purposes of Executive Order (E.O.) 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

National Environmental Policy Act

In accordance with the National Environmental Policy Act of 1969, Public Law 91–190, this final rule has been reviewed in accordance with 7 CFR part 1970 ("Environmental Policies and Procedures"). The Agency has determined that i) this action meets the criteria established in 7 CFR 1970.53(f); ii) no extraordinary circumstances exist; and iii) the action is not "connected" to other actions with potentially significant impacts, is not considered a "cumulative action" and is not precluded by 40 CFR 1506.1. Therefore, the Agency has determined that the action does not have a significant effect on the human environment, and therefore neither an Environmental Assessment nor an Environmental Impact Statement is required.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988 (Civil Justice Reform). The Agency has determined that this rule meets the applicable standards provided in section 3 of the Executive Order. In addition, all State and local laws, and regulations that conflict with this rule will be preempted. No retroactive effect will be given to this rule.

Executive Order 13132, Federalism

The policies contained in this final rule do not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on state and local governments. Therefore, consultation with the states is not required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–602) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements

under the Administrative Procedure Act ("APA") or any other statute. The APA exempts from notice and comment requirements rules "relating to agency management or personnel or to public property, loans, grants, benefits, or contracts" (5 U.S.C. 553(a)(2)), so therefore an analysis has not been prepared for this rule.

Executive Order 12372, Intergovernmental Consultation

This final rule is excluded from the scope of Executive Order 12372 (Intergovernmental Consultation), which may require a consultation with State and local officials. See the final rule related notice entitled, "Department Programs and Activities Excluded from Executive Order 12372" (50 FR 47034).

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This executive order imposes requirements on the Agency. The Agency has determined that the rule does not have a substantial direct effect on one or more Indian Tribe(s) or on either the relationship or the distribution of powers and responsibilities between the Federal Government and Indian Tribes. Thus, this rule is not subject to the requirements of Executive Order 13175. If Tribal leaders are interested in consulting with the Agency on this rule, they are encouraged to contact USDA's Office of Tribal Relations or the Agency's Native American Coordinator at: AIAN@usda.gov to request such a consultation.

Assistance Listing Number

The Assistance Listing (formerly known as the Catalog of Federal Domestic Assistance (CFDA)) numbers assigned to the 4 programs within this rule are: 10.766 for Community Facility Programs, 10.760 for Water and Waste Disposal Programs, 10.768 for Business and Industry Programs and 10.868 for Rural Energy for America Program. The complete catalog is available on the internet at <https://sam.gov/content/assistance-listings>.

Paperwork Reduction Act and Recordkeeping Requirements

This rule contains no new reporting or recordkeeping burdens under OMB control number 0572–0166 that would require approval under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act of 2002, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

Civil Rights Impact Analysis

RD has reviewed this Final rule in accordance with USDA Regulation 4300–4, Civil Rights Impact Analysis,” to identify any major civil rights impacts the rule might have on program participants on the basis of age, race, color, national origin, sex, disability, gender identity (including gender expression), genetic information, political beliefs, sexual orientation, marital status, familial status, parental status, veteran status, religion, reprisal and/or resulting from all or a part of an individual’s income being derived from any public assistance program. This final rule is within a guarantee-based program. Guarantees are not covered under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and Title IX of the Education Amendments Act of 1972, as amended, when the Federal assistance does not include insurance or interest credit loans. Lenders must comply with other applicable Federal laws, including Equal Employment Opportunities, the Equal Credit Opportunity Act, the Fair Housing Act, and the Civil Rights Act of 1964. Guaranteed loans that involve the construction of or addition to facilities that accommodate the public must comply with the Architectural Barriers Act Accessibility Standard. The borrower and lender are responsible for ensuring compliance with these requirements.

USDA Non-Discrimination Statement

In accordance with Federal civil rights laws and U.S. Department of Agriculture (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 <https://www.usda.gov/sites/default/files/documents/ad-3027.pdf> from any USDA office, by calling (866) 632–9992, or by writing a letter addressed to USDA. The letter must contain the complainant’s name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD–3027 form or letter must be submitted to USDA by:

- (1) *Mail*: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or
- (2) *Fax*: (833) 256–1665 or (202) 690–7442; or
- (3) *Email*: program.intake@usda.gov.

Severability

It is USDA’s intention that the provisions of this rule shall operate independently of each other. In the event that this rule or any portion is ultimately declared invalid or stayed as to a particular provision, it is USDA’s intent that the rule nonetheless be severable and remain valid with respect to those provisions not affected by a declaration of invalidity or stayed. USDA concludes it would separately adopt all of the provisions contained in this final rule.

USDA is an equal opportunity provider, employer, and lender.

List of Subjects in 7 CFR Part 5001

Business and industry, Community facility, Energy efficiency improvement, Loan programs, Renewable energy, Rural areas, Rural development, Water and waste disposal.

For the reasons set forth in the preamble, under the authority at 5 U.S.C. 301 and 7 U.S.C. 1989, 7 CFR part 5001 is amended as follows:

PART 5001—Guaranteed Loans

■ 1. The authority citation for part 5001 continues to read as follows:

Authority: 5 U.S.C. 301; 7 U.S.C. 1926(a); 7 U.S.C. 1932(a); and 7 U.S.C. 8107.

Subpart A—General Provisions

■ 2. Amend § 5001.1 by revising (b) to read as follows:

§ 5001.1 General.

* * * * *

(b) The applicability of the provision of this part for processing and approving applications and for servicing guaranteed loans depend on when a complete application is received. The Agency will process and approve applications, and service guaranteed loans according to the provisions of this part for all complete guaranteed loan applications that it receives on or after October 1, 2020, including guaranteed loan applications submitted under any of the programs whose authorization is identified in this section. All complete applications received before October 1, 2020, will be processed, and awarded and guaranteed loans serviced in accordance with the existing regulations in effect at the complete application date for the program under which the application was submitted.

■ 3. Amend § 5001.2 by revising paragraphs (b) and (d) to read as follows:

§ 5001.2 Structure.

* * * * *

(b) *Subpart B*. This subpart contains provisions for determining project, borrower, and lender eligibility that are applicable to each guaranteed loan made under this part. It also contains a list of eligible and ineligible uses of loan funds, ineligible projects and conditions that would make an otherwise eligible borrower ineligible. The lender’s agreement is addressed as well as maintenance of approved lender status.

* * * * *

(d) *Subpart D*. This subpart contains provisions relating to applications for a loan guarantee under this part, including preliminary eligibility reviews, the application process, application evaluation, and the application award processes that are applicable to each guaranteed loan made under this part.

* * * * *

■ 4. Amend § 5001.3 by revising the definitions of “Affiliate”, “Agricultural producer”, “Collateral”, “Commercially available”, “Debt Collection Improvement Act”, “Delinquency”, “Energy efficient equipment and

systems”, “Federal debt”, “Guarantor”, “Hospital”, “Hybrid”, “Local owner”, “Matching funds”, “Natural resource value-added product”, “Professional service”, “Refurbished”, “Renewable energy system (RES)”, “Retrofitting”, “Rural and rural area”, “Simple payback”, “Small business”, “Total project costs”, and “Underserved communities” to read as follows:

§ 5001.3 Definitions.

* * * * *

Affiliate means a person that is connected with or controlled by another organization. Factors such as ownership, management, current and previous relationships with or ties to another person, and contractual relationships, will be considered in determining whether affiliation exists. Affiliation is determined using the principles outlined in 13 CFR 121.103.

* * * * *

Agricultural producer means a person, including non-profits, directly engaged in the production of agricultural products through labor management and operations, including the cultivating, growing, and harvesting plants and crops (including farming); breeding, raising, feeding, or housing of livestock (including ranching); forestry products; hydroponics; nursery stock; or aquaculture, whereby 50 percent or greater of their gross income is derived from the operations. All gross income of the applicant entity is included for agricultural producer eligibility. The percentage is calculated as the average of gross agricultural operations income of the concern divided by the gross non-farm income of the concern for the five most recent years. If the concern has been in operation for less than 60 months but for at least 12 months, average gross agricultural operations income, and gross non-farm income for as long as the concern has been in operation will be used. Agricultural operations income may include such items as production contracts, crop insurance, commodity payments, etc. Total income may include W-2 wages, schedule C income, and other income not related to the agricultural operation. Calculations will be using the applicant's five most recent tax years. Each year's gross agricultural operations income will be divided by the applicant's gross total income, then the five years will be averaged to determine eligibility. An agricultural producer could be located in either a rural or a non-rural area.

* * * * *

Collateral means the asset(s), including assignments of relevant

agreements, pledged by the borrower to the lender as security for the guaranteed loan.

* * * * *

Debt Collection Improvement Act (DCIA) means the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701 *et seq.*, which requires that any nontax monies that are payable or may become payable from the United States under contracts and other written agreements to any person not an agency or subdivision of a state or local government may be subject to certain collection options, such as administrative offset, for a delinquent debt the person owes to the United States implemented under 7 CFR part 3.

* * * * *

Delinquency means a situation that exists when a scheduled loan payment on a guaranteed loan made under this part is more than 30 calendar days past due and cannot be cured within the next 30 calendar days. For purposes of this part, delinquency provides guidance for completing borrower status reports and is not used to define monetary or non-monetary default or undertaking-related servicing actions.

* * * * *

Energy efficient equipment and systems (EEE) means equipment or systems for agricultural production or processing that exceed any of the following standards. Applications for energy efficient equipment and systems must clearly demonstrate energy efficiency.

* * * * *

Essential community facility means a public improvement, operated on a non-profit basis, needed for the orderly development of a rural community where the rural community is a city or town, or its equivalent county or multi-county area. The term “facility” refers to both the physical structure financed, and the resulting service provided to rural residents or rural businesses. Facilities may include, but are not limited to, courthouses, community centers, libraries, firehouses, health care, education, transportation, and industrial parks. An industrial park consists of land and the necessary access ways and utilities to the site, but not improvements erected on such site.

* * * * *

Federal debt means debt owed to the Federal Government that is subject to collection under the Debt Collection Improvement Act of 1996, 31 U.S.C. 3701, *et seq.*

* * * * *

Guaranteed loan means a loan made and serviced by a lender for which the

Agency and lender have entered into a lender's agreement and for which the Agency has issued a loan note guarantee. Unless otherwise specified, guaranteed loan refers to a loan that the Agency has guaranteed under this part.

* * * * *

Guarantor means a person giving assurance to the Agency under an Agency-approved written agreement that the borrower's obligations will be fulfilled and promising *its undertaking of responsibility* for repayment of a guaranteed loan if the borrower should default.

* * * * *

Hospital (1) For the purpose of refinancing rural hospital debt in accordance with § 5001.102(d)(5), hospital means the following types of facilities defined in the Social Security Act, Section 1861 (42 U.S.C. 1395x):

(i) Hospital (section 1861(e)).

(ii) Psychiatric hospital (section 1861(f)).

(iii) Long-term care hospital (section 1861(ccc)); and shall also include the following other provider types defined in the Social Security Act, Section 1861 (42 U.S.C. 1395X):

(A) Critical access hospital (section 1861(mm)(1)).

(B) Religious nonmedical health care institution (section 1861(ss)(1)).

(2) The Agency will use the applicant provider's Centers for Medicare and Medicaid Services (CMS) Certification Number (CCN) to verify the applicant provider is listed as a “Hospital” for the “Provider or Supplier Type” category on the CMS Quality Certification and Oversight Reports (QCOR) website qcor.cms.gov/index_new.jsp.

* * * * *

Hybrid means a combination of two or more renewable energy technologies that are incorporated into a unified system to support a single project. Projects which propose two or more different renewable energy technologies that are not incorporated into a unified system and projects which propose different renewable energy technologies at two or more locations (a different technology at each site) are not eligible. For example, installing wind technologies at one location and solar technologies at another location is not considered hybrid but installing wind and solar technologies that are incorporated into a unified system to support a single project at both locations is considered hybrid.

* * * * *

Local owner means an individual who owns any portion of an entity that is the eligible borrower and whose primary residence is located within the normal

commuting area, typically 100 miles or less, of the guaranteed loan project.

* * * * *

Matching funds means the 25 percent of total eligible project costs required by 7 U.S.C. 8107 (REAP) to be eligible to receive a guaranteed loan. Funds provided by the borrower in excess of matching funds are not matching funds.

* * * * *

Natural resource value-added product means a product derived from any naturally occurring resource, including agricultural resources, that is further processed to add value or used to generate energy or renewable energy. For example, wind or the sun being used for energy generation, grapes that are processed into wine or jam, or straw that is processed into particle board. Feeding grain to livestock is not considered as part of this definition.

* * * * *

Professional service means services used by the borrower for planning and developing a project, including, but not limited to, appraisals, architectural services, surveys, environmental impact analyses, implementing mitigation measures, and establishing or acquiring property rights. Such services are generally rendered by persons licensed or certified by States or accreditation associations, such as architects, engineers, accountants, attorneys, or appraisers, and those rendered by loan packagers, but not including loan finders. A loan finder fee is not considered a professional service.

* * * * *

Refurbished means a piece of equipment or renewable energy system that has been brought into a commercial facility, thoroughly inspected, and worn parts replaced and has a warranty that is approved by the Agency or its designee. An example of refurbished equipment is a diesel engine that has been rebuilt to factory specifications. The purchase of used equipment which has not been refurbished is not eligible.

* * * * *

Renewable energy system (RES) means a system that produces usable energy from a renewable energy source. Co-firing with fossil fuels, natural gas or petroleum-based products or materials such as coal and other fuels, oils, chemicals, tires, or plastic are not eligible; and may include:

(1) Distribution components necessary to move energy produced by such system to the initial point of sale; and

(2) Other components and ancillary infrastructure of such system, such as a storage system; however, such system may not include a mechanism for

dispensing energy at retail *e.g.*, a flexible fuel pump.

* * * * *

Retrofitting means a modification to an existing building or installed equipment that incorporates a function or feature(s) not included in the original design when built or for the replacement of existing components with components that improve the original design and does not affect original warranty if the warranty is still in existence. Examples of retrofitting include:

(1) Installing newly designed blades to an existing wind turbine to enhance energy production.

(2) Adding equipment or processes to or altering or enhancing an existing RES to improve production, efficiency, or financial viability, such as a feedstock retreater on an existing biodiesel production plant;

(3) Adding a battery system to an existing RES;

(4) Installing a steam turbine at an ethanol plant, or;

(5) Installing a combined heat and power system for a pellet production facility.

* * * * *

Rural and rural area means any area of a State not in a city or town that has a population of more than 50,000 inhabitants, and which excludes certain populations pursuant to 7 U.S.C. 1991(a)(13)(H), according to the latest decennial census of the United States and not in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants. In making this determination, the Agency will use the latest decennial census of the United States. Applications cannot be approved subject to meeting rural area requirements. Locations that are contiguous and adjacent to an urbanized area will be delineated as a non-eligible area in the Rural Development Property Eligibility Map found at: <https://eligibility.sc.egov.usda.gov/eligibility/welcomeAction.do>. This map is maintained independently by another government agency and is oriented through census tract data. The following exclusions apply:

(1) Any area in the urbanized area contiguous and adjacent to a city or town that has a population of more than 50,000 inhabitants that has been determined to be “rural in character” as follows:

(i) The determination that an area is “rural in character” will be made by the Under Secretary of Rural Development. *Rural in character requests and determinations are project specific; e.g.,*

if approved, the determination does not apply to any future request made within the same area. The process to request a determination under this provision is outlined in paragraph (1)(ii) of this definition. The determination that an area is “rural in character” under this definition will apply to areas that are within:

(A) An urbanized area that has two points on its boundary that are at least 40 miles apart, which is not contiguous or adjacent to a city or town that has a population of greater than 150,000 inhabitants or the urbanized area of such a city or town; or

(B) An urbanized area contiguous and adjacent to a city or town of greater than 50,000 inhabitants that is within ¼ mile of a rural area.

(ii) Units of local government may petition the Under Secretary of Rural Development for a “rural in character” designation by submitting a petition to the appropriate Rural Development State Director for recommendation to the Administrator on behalf of the Under Secretary. The petition shall document how the area meets the requirements of paragraph (1)(i)(A) or (B) of this definition and discuss why the petitioner believes the area is “rural in character,” including, but not limited to, the area’s population density, demographics, and topography and how the local economy is tied to a rural economic base. Upon receiving a petition, the Under Secretary will consult with the applicable governor or leader in a similar position and request comments to be submitted within 5 business days, unless such comments were submitted with the petition. The Under Secretary will release to the public a notice of a petition filed by a unit of local government not later than 30 days after receipt of the petition by way of publication in a local newspaper and posting on the Agency’s website at rd.usda.gov/onerdguarantee, and the Under Secretary will make a determination not less than 15 days, but no more than 60 days, after the release of the notice. Upon a negative determination, the Under Secretary will provide to the petitioner an opportunity to appeal a determination to the Under Secretary, and the petitioner will have 10 business days to appeal the determination and provide further information for consideration. The Under Secretary will make a determination of the appeal in not less than 15 days, but no more than 30 days.

(iii) Rural Development State Directors may also initiate a request to the Under Secretary to determine if an area is “rural in character.” A written recommendation must document how

the area meets the statutory requirements of paragraph (1)(i)(B) of this definition and discusses why the State Director believes the area is “rural in character,” including, but not limited to, the area’s population density, demographics, topography, and how the local economy is tied to a rural economic base. Upon receipt of such a request, the Administrator will review the request for compliance with the “rural in character” provisions and make a recommendation to the Under Secretary. Provided a favorable determination is made, the Under Secretary will consult with the applicable Governor and request comments within 10 business days, unless gubernatorial comments were submitted with the request. A public notice will be published by the State Office in accordance with paragraph (1)(ii) of this definition. There is no appeal process for requests made on the initiative of the State Director.

(2) An area that is attached to the urbanized area of a city or town with more than 50,000 inhabitants by a contiguous area of urbanized census blocks that is not more than two census blocks wide. Applicants from such an area should work with their Rural Development State Office to request a determination of whether their project is located in a rural area under this provision. This applies to areas that would not be considered a rural area because they are attached to the urbanized area of a city or town of greater than 50,000 inhabitants by a “string” area that is two census blocks wide or less (which are typically interstates or major highways). As long as the “string” area is two census blocks wide or less, the area outside of the urbanized area, beginning with the “string” area, may be considered rural. Once an area is approved as a string exception, any project within that area is eligible.

(3) For the Commonwealth of Puerto Rico, the island is considered Rural and eligible except for the San Juan Census Designated Place (CDP) and any other CDP with greater than 50,000 inhabitants. Areas within CDPs with greater than 50,000 inhabitants, other than the San Juan CDP, may be determined to be Rural if they are “not urban in character.”

(4) For the State of Hawaii, all areas within the State are considered rural and eligible except for the Honolulu CDP within the County of Honolulu and any other CDP with greater than 50,000 inhabitants. Areas within CDPs with greater than 50,000 inhabitants, other than the Honolulu CDP, may be

determined to be rural if they are “not urban in character.”

(5) For the purpose of defining a rural area in the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands, the Agency shall determine what constitutes rural and rural Area based on available population data.

* * * * *

Simple payback means the estimated simple payback of a project funded under this part as calculated using paragraph (1), (2), or (3) of this definition, as applicable.

(1) Energy efficiency improvement projects simple payback = (Total Project Costs) ÷ (Dollar value of energy saved).

(i) Energy saved will be determined by subtracting the projected energy (determined by the method in paragraph (1)(i)(B) of this definition) to be consumed from the historical energy consumed (determined by the method in paragraph (1)(i)(A) of this definition), and converting the result to a monetary value using a constant value or price of energy (determined by the method in paragraph (1)(i)(C) of this definition).

(A) Actual energy used in the original building and/or equipment, as applicable, prior to the EEI project, must be based on the actual average annual total energy used in British thermal units (BTU) over the most recent 12, 24, 36, 48, or 60 consecutive months of operation.

(B) Projected energy use if the proposed EEI project had been in place for the original building and/or equipment, as applicable, for the same time period used to determine that actual energy use under paragraph (1)(i)(A) of this definition.

(C) Value or price of energy must be the actual average price paid over the same time period used to calculate the actual energy used under paragraph (1)(i)(A) of this definition.

(ii) Energy efficiency improvement projects simple payback does not allow EEI to monetize benefits other than the dollar amount of the energy savings the agricultural producer or rural small business realizes as a result of the improvement.

(iii) Proposed additional energy consumption by a business which would result in greater savings if implemented is not considered in the payback calculation.

(2) Renewable energy systems projects simple payback = (total project costs) ÷ (dollar value of energy units replaced, credited, sold, or used and fair market value of byproducts as applicable in a typical year).

(i) Value of energy replaced will be calculated based on the borrower

entity’s historical energy consumption with actual average price paid for the energy replaced, following the methodology outlined in paragraph (1)(i) of this definition RES replacement projects which generate more energy than the applicant’s historical records document, may add to the replacement value, the value obtained by taking the excess energy generated times a documented market price in order to derive at total dollar value of energy units replaced, credited, sold, or used.

(ii) Value of energy credited or sold will be calculated based on the amount of energy units to be sold at the proposed rate per unit, as documented in utility net metering or crediting policies and/or a purchase agreement.

(iii) If proposed energy will be used in a new facility (includes any direct-use project), value of energy used will be calculated based on the amount of energy units to be used at the documented price per unit of conventional fuel alternative.

(iv) Value of byproducts produced by and used in the project or related enterprises should be documented at the fair market value to be received for the byproducts in a typical year.

(v) Renewable energy systems projects simple payback does not include any one-time benefits such as but not limited to construction and investment-related benefits, nor credits which do not provide annual income to the project, such as tax credits. These benefits may be considered when appropriate for calculating repayment ability of guaranteed loans.

(vi) For RES projects that involve a shared meter with a residence where the cost of the system has been prorated, only the eligible prorated amount of energy attributed to the rural business or agricultural producer will be used in the payback calculation. For projects that involve in-eligible expenses other than residential, the full amount of energy production will be used in the payback calculation.

(3) Energy efficiency equipment and systems projects simple payback = (total project costs) ÷ (dollar value of efficiency savings). Efficiency savings will be determined by subtracting the annual value of energy to be consumed by the proposed energy efficient equipment from the annual value of energy that a conventional equipment alternative would have consumed. Adequate documentation must be provided for all consumption estimates and values utilized in the calculation.

* * * * *

Small business means an entity that meets the requirements of paragraphs (1) and (2) of this definition:

(1) An entity or utility, as applicable, as further defined in paragraphs (1)(i) through (iv) of this definition and meeting the requirements in paragraph (2) of this definition. With the exception of the entities identified in this paragraph, all other non-profit entities are not small businesses for the purposes of REAP program eligibility:

(i) A private for-profit entity, including a sole proprietorship, partnership, or corporation. The application must sufficiently describe the operations of the applicant's business entity;

(ii) A cooperative (including a cooperative qualified under section 501(c)(12) of the Internal Revenue Code);

(iii) An electric utility (including a Tribal or governmental electric utility) that provides service to rural consumers and operates independent of direct government control; or

(iv) A Tribal corporation or other Tribal business entities that are chartered under Section 17 of the Indian Reorganization Act (25 U.S.C. 5124) or have similar structures and relationships with their Tribal governments and are acceptable to the Agency. The Agency will determine the small business status of such Tribal entity without regard to the resources of the Tribal government. This means that only the applicant entity must meet the definition of a small business; and

(2) An entity that meets the requirements of (i) or (ii) below:

(i) The Small Business Administration size standards in accordance with 13 CFR 121.301(a), and any successor regulation. The size of the applicant alone (without affiliates) must not exceed the size standard designated for the industry in which the applicant is primarily engaged. Also, the size of the applicant combined with its affiliates must not exceed the size standard designated for either the primary industry of the applicant alone or the primary industry of the applicant and its affiliates, whichever is higher. Size standards to be utilized are found in 13 CFR 121.201, and any successor regulation. The size standards themselves are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for an entity and its affiliates and are calculated using the following criteria:

(A) The number of employees is calculated using the guidance found in 13 CFR 121.106, and any successor regulation. The average number of employees is used based upon number

of employees for each of the pay periods for the preceding 24 months. Part-time and temporary employees are counted as full-time employees. If the entity has not been in business for 24 months, the average number of employees is used for each of the pay periods during which it has been in business; or

(B) Annual receipts are calculated using the guidance found in 13 CFR 121.104, and any successor regulation. Federal income tax returns and any amendments filed with the IRS on or before the date of application must be used. If an entity has not filed a Federal income tax return, the Agency will calculate the entities annual receipts using any other available information such as regular books of account, or audited financial statements; or

(ii) The size standard outlined in 13 CFR 121.301(b)(2), and any successor regulation. Including its affiliates, the entity must not have a tangible net worth in excess of \$20 million, and average net income after Federal income taxes (excluding carry over losses) for the preceding two completed fiscal year not in excess of \$6.5 million.

* * * * *

Total project costs means the sum of all costs associated with a completed project. All costs associated with a completed project, including ineligible project costs, must be included. Total project costs for retrofitting an existing RES includes the costs associated with the modifications or replacement of the existing components.

* * * * *

Underserved communities mean communities (including urban or rural communities and Indian tribal communities) that have limited access to affordable, healthy foods, including fresh fruits and vegetables, in grocery retail stores or farmer-to-consumer direct markets and that have either a high rate of hunger or food insecurity or a high poverty rate as reflected in the most recent decennial census or other Agency-approved census. For purposes of awarding priority points, when applicable, this definition shall also include unserved or underserved populations, including minorities or protected groups, persistent poverty areas, or areas where Rural Development projects have not been awarded in the past five years. High poverty rate is based on current census data and is not the same as persistent poverty which uses data for the last 30 years.

* * * * *

■ 5. Amend § 5001.6 by revising paragraph (b) to read as follows:

§ 5001.6 General lender responsibilities.

* * * * *

(b) Lenders can contract for services, but such contracting does not relieve a lender from its responsibilities as identified in this part or, where applicable, in the applicable guaranteed loan program identified in § 5001.1.

* * * * *

■ 6. Revise § 5001.7 to read as follows:

§ 5001.7 Agency's special initiatives.

Applicants submitting applications that support the implementation of strategic or special initiatives are encouraged to review the Agency's annual notice to determine if their projects are eligible for receiving priority for projects. These projects may also support the implementation of strategic economic development and community development plans on a multi-jurisdictional and multi-sectoral basis in accordance with section 6401 of the Agriculture Improvement Act of 2018 (Pub. L. 115–334).

■ 7. Amend § 5001.8 by revising paragraphs (e) introductory text and (e)(1) to read as follows:

§ 5001.8 Approvals, regulations, and forms.

* * * * *

(e) 7 CFR part 5001 does not prohibit or consent to electronic signatures. Rural Development will accept electronic signatures from lenders for origination, loan closing, and servicing documents in accordance with the E-Sign Act unless otherwise prohibited by law or program. Lenders may use electronic signatures for electronic promissory notes (eNotes), deeds of trust and other documents relevant to the loan transaction, providing that the lender perfects and maintains a first lien position, an enforceable promissory note, and meets all other agency requirements including the following:

(1) Lenders may submit forms to Rural Development electronically using USDA's Service Center Agencies Online Services website. Registration is limited to individuals and each individual authorized by the lender must register and upon registration may electronically sign and submit certain forms on behalf of the lender.

* * * * *

■ 8. Revise and republish § 5001.9 to read as follows:

§ 5001.9 Standards for financial information.

(a) All financial information (e.g., financial statements, balance sheets, financial projections, and income statements) must be prepared and

submitted in accordance with accounting practices acceptable to the Agency. Such practices can include, but are not limited to, Generally Accepted Accounting Principles (GAAP) and the industry's standard accounting practice. Unless the applicant or borrower meets the threshold for an audit in accordance with 2 CFR part 200 subpart F, the type of financial statement, *e.g.*, borrower prepared, compiled, reviewed, or audited, required is typically the decision of the lender.

(b) For sole proprietorships and other situations where business assets are held personally, financial statements must be prepared using only the assets and liabilities directly attributable to the applicant's project. For these situations, assets, plus any improvements, must be valued at the lower of cost or market value.

(c) A tax return is not an acceptable financial statement when underwriting a loan guaranteed under this part; however, tax return information may be used to prepare financial statements and to determine REAP eligibility.

■ 9. Amend § 5001.101 by:

- a. Revising paragraphs (a) and (b); and
- b. Adding paragraph (f)

The revisions and addition read as follows:

§ 5001.101 Introduction.

* * * * *

(a) *Project eligibility.* Sections 5001.102 through 5001.108 identify requirements for projects to be eligible to receive a loan guarantee under this part. Sections 5001.115 through 5001.119 identify types of projects that are not eligible for a loan guarantee under this part. The Agency will not issue a loan guarantee under this part for any project that does not meet the applicable eligibility criteria as specified.

(b) *Borrower eligibility.* Section 5001.126 identifies the types of borrowers that are eligible to receive a loan guarantee for their projects under this part. The types of borrowers eligible to receive loan guarantees for their projects vary based on the guaranteed loan program they are applying under and that guaranteed loan program's authorizing statute as set forth in § 5001.1. Section 5001.127 identifies conditions that would make an otherwise eligible borrower ineligible for receiving a loan guarantee for its project under this part.

* * * * *

(f) *Use of funds.* Section 5001.121 identifies eligible uses of guaranteed loan funds and § 5001.122 identifies ineligible uses of guaranteed loan funds.

* * * * *

■ 10. Amend § 5001.102 by revising and republishing paragraph (d) to read as follows:

§ 5001.102 Project eligibility—general.

* * * * *

(d) *Debt refinancing.* The Agency can guarantee loans for debt refinancing, as described in paragraphs (d)(1) through (5) of this section when the guaranteed loan extinguishes the debt being refinanced. These paragraphs do not apply to REAP loans, see § 5001.121(d)(14) for REAP refinancing provisions. Longer-term financing to pay off a lender's interim construction loan after project completion will not be treated as debt refinancing as long as it meets the requirements for takeout of interim financing in § 5001.121(c)(6). An eligible debt refinancing project is:

(1) Refinancing of debt on one or more loans owed to another creditor. There is no limit on percent of total use of funds if a new lender is refinancing debt owed to another creditor;

(2) Refinancing of debt owed to the applicant lender or any part thereof provided that the applicant lender debt being refinanced does not exceed 50 percent of the total use of funds in the new aggregated federally-guaranteed debt, the applicant lender debt being refinanced is in a current status for the past six months and the new guaranteed loan is providing better rates or repayment terms. Better rates or repayment terms can be shown in a variety of ways including the lender providing a fixed rate over a lower variable rate provided the change is advantageous to the borrower's long-term repayment ability. The current status cannot be achieved by the lender forgiving the borrower's debt or by servicing actions that impact the borrower's repayment schedule; or

(3) Refinancing of debt owed directly to the Federal Government or that is federally-guaranteed, including any guaranteed debt owed to the applicant lender, when a refinance of this debt is consistent with sections 333, "Special Conditions and Limitations on Loans" and 306(a)(24)(C), "Loan Guarantees for Water, Wastewater, and Essential Community Facilities Loans" of the Consolidated Farm and Rural Development Act (as amended by the Agriculture Improvement Act of 2018, Pub. L. 115–334). Such guaranteed debt shall not be included in the amount of applicant lender debt when calculating the maximum percentage of the total use of funds in the new guaranteed loan as stated in paragraph (d)(2) of this section; and,

(4) When the refinancing is in accordance with paragraphs (d)(1)

through (3) of this section, the following requirements must be met:

(i) The Agency has determined that the project is viable, and debt refinancing is necessary to improve cash flow;

(ii) The debt is reflected on the borrower's balance sheet and the original loan funds were used for project-eligible purposes. Refinancing of existing lines of credit is considered an eligible purpose for debt refinancing in the B&I program;

(iii) For loans to existing businesses where debt refinancing is a majority purpose of the guaranteed loan, the borrower must demonstrate historical debt service coverage ratios using proposed debt service requirements of not less than 1.1 times, or the borrower's current financial performance demonstrates it has corrected or recovered from impacts or issues adversely affecting its past financial performance. The debt service coverage ratio computed based on the current income statement must be at least 1:1 to demonstrate correction or recovery.

(5) For CF guaranteed loan requests only, refinancing of debt, not including new construction, incurred by a rural hospital to preserve access to a health service when the refinancing will meaningfully improve the financial position of the hospital. The debt can be existing Agency direct loan debt, Agency guaranteed debt, or another lender's debt (including other non-Agency Federal guaranteed debt). Loan requests to refinance rural hospital debt must demonstrate that the new amount of annual debt repayment on the debt being refinanced will be less than the existing amount of annual debt repayment and provide a total debt service coverage ratio of at least 1.1 based on historical cash flow. To calculate the ratio, the new debt service amount will include annual capital expense reserve and annual debt repayment reserve requirements. This information will be provided by the lender on an Agency approved application for loan guarantee and its associated supporting documentation.

■ 11. Amend § 5001.103 by:

- a. Revising paragraphs (a)(1), (a)(3) and (b)(1); and
- b. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 5001.103 Eligible CF projects and requirements.

* * * * *

(a) * * *

(1) Health care facilities and services, including but not limited to hospitals and assisted living facilities providing

daily living and health care assistance in compliance with Federal, Tribal and/or State licensure or certification requirements;

* * * * *

(3) Community, public, social, educational, or cultural facilities or services, including but not limited to:

(i) Business incubators when not an inherently commercial enterprise, and the applicant demonstrates the following:

(A) Applicant is a mission-driven organization such as a local or regional economic development organization;

(B) The facility will be used to provide technical assistance, training, workforce development, administrative support services and vocational training to address workforce shortages in the community or region; and

(C) Capacity building and support services that include at a minimum the following with the borrower demonstrating expertise in one or more of these services or presents a sustainable economically feasible program to outsource such activities:

(1) Business plan development;
(2) Administrative support services;
(3) Training and technical assistance;
(4) Mentoring, coaching, and leadership;

(5) Finance and accounting workshops;

(6) Programs to access capital; and
(7) High-speed internet access;

(ii) Thrift stores that operate as charitable organizations to enrich the quality of life for residents of the rural community they serve demonstrated by the following activities:

(A) Collect and resell used or donated merchandise to community residents and may also provide other services such as job training or food pantries;

(B) Receive donations, gifts, or bequests of money to help fund the organization and its purpose with a significant portion obtained from the rural community it serves.

(C) Profits are reinvested in the facility or in charitable activities in the rural community served to ensure the goals of the organization are met.

(iii) Fairgrounds, agricultural exposition centers, farmers markets, food distribution and food banks;

* * * * *

(b) * * *

(1) To demonstrate availability for public use, the borrower may not restrict use of or membership to its facility or service based on race, color, religion, sex, national origin, age, disability, sexual orientation, or marital or familial status Veterans of Foreign Wars and American Legion post

facilities must be open and available for use by appointment or lease to community residents or groups.

* * * * *

(d) *Leased space*. Eligible projects may include leased space to ineligible organizations or leased space used for ineligible commercial activities provided the floor space leased to ineligible organizations or used for ineligible commercial activity is less than 25 percent of the facility's floor space. The ineligible organization and the ineligible commercial activity must be related to and enhance the primary purpose of the eligible project. Examples include a hair salon in an assisted living facility, or a pharmacy in a medical facility.

(e) *Purchase of existing facility*. When the project is to otherwise improve an essential community facility through the purchase of an existing facility as defined in § 5001.3 the following are required:

(1) An appraisal which demonstrates the purchase price is fair and reasonable and represents the market value of the facility through an arm's length transaction; and

(2) If the transaction is necessary to improve the facility, documentation of the improvements that will be required and the plan, including source of funding, to complete those improvements within a reasonable timeframe; or

(3) If the transaction is necessary to prevent a loss of service, documentation in the form of a financial analysis that demonstrates the seller will not have the financial means to continue to operate the facility and provide the needed services.

■ 12. Amend § 5001.104 by revising the introductory text and paragraphs (a) and (d)(1) to read as follows:

§ 5001.104 Eligible WWD projects and requirements.

For a WWD project to be eligible for a loan guarantee under this part, it must meet the criteria specified in § 5001.102 and this section and be for a borrower eligible to submit an application for the project in accordance with § 5001.126.

(a) *Type of project*. The project must be for one or more of the following facilities:

(1) Drinking water facilities, including but not limited to water source, treatment and distribution;

(2) Sanitary sewage facilities, including but not limited to collection and treatment;

(3) Solid waste facilities; or,

(4) Stormwater facilities.

* * * * *

(d) * * *

(1) The project must be installed to serve any user within the service area who desires service and can be feasibly and legally served.

* * * * *

■ 13. Amend § 5001.105 by revising paragraphs (b)(7), (b)(10), (b)(14), (b)(15)(i)(D), (b)(18)(i), (b)(18)(ii) introductory text, (b)(20), (b)(22)(vii), (d) introductory text, and (d)(1)(iii) to read as follows:

§ 5001.105 Eligible B&I projects and requirements.

* * * * *

(b) * * *

(7) Agricultural production, when not eligible for Farm Service Agency (FSA) farm loan programs assistance and when it is part of an integrated business also involved in the processing of agricultural products. Any agricultural production considered for guaranteed loan financing must be owned, operated, and maintained by the business receiving the guaranteed loan. Examples of potentially eligible agricultural production include but are not limited to an apple orchard in conjunction with a food processing plant; poultry buildings linked to a meat processing operation; or sugar beet production coupled with storage and processing.

* * * * *

(10) Development and construction of broadband and telecommunication systems, including modification of existing systems, that are not otherwise eligible for funding in the RUS program or if funding is unavailable in the RUS program, subject to the public notice filing requirements of 7 CFR 1738.106(a) and the additional reporting requirements of 7 CFR 1738.107.

* * * * *

(14) Leasehold improvements when the lease contains no reverter clauses or restrictive clauses that would impair the use or value of the property as security for the loan. The term of the lease must be equal to or greater than the term of the loan. Leasehold improvements are physical enhancements made to property by or on behalf of the property's lessee. When improvements are made to real property and those improvements are permanently affixed to the property, the title to those improvements automatically transfers to the owner of the property upon termination of the lease.

(15) * * *

(i) * * *

(D) Includes an appropriate agreement with retail and institutional clients to inform consumers that they are

purchasing or consuming locally or regionally produced agricultural food products. The agreement(s) must be in place prior to issuance of the loan note guarantee and stated as part of the lender's certification at loan closing.

* * * * *

(18) * * *

(i) Guaranteed loans to eligible cooperatives may be made in principal amounts up to \$40 million if the project is located in a rural area, the cooperative facility being financed provides for the value-added processing of agricultural commodities, and the total amount of guaranteed loans exceeding \$25 million does not exceed 10 percent of the funds available for the fiscal year. Guaranteed loans in excess of \$25 million in accordance with this provision may only be approved by the Secretary, whose authority may not be redelegated.

(ii) Guaranteed loans to eligible cooperatives may also be made in non-rural areas provided:

* * * * *

(20) Nursing homes and assisted living facilities where constant medical care is provided and available onsite to the residents. Independent living facilities are not eligible in accordance with § 5001.118(a). Independent living facilities are considered residential property as they have many similarities to a multi-family housing complex, whereas nursing home and assisted living facility tenants rely on those entities to provide needed personal or medical care. Properties consisting of both assisted care facilities and independent senior living may be eligible if the availability of the on-site medical services is an optional service to the independent living residents, or if the predominant residents of the facility require assisted living care.

* * * * *

(22) * * *

(vii) Operations and maintenance. The demonstration of technical merit is the completion of two operating cycles at its designed production level. "Operating cycle" is the average time between the acquisition of materials or the providing of services and the final cash realization of that acquisition or provision of services.

* * * * *

(d) *Capital and equity.* Borrowers are required to have sufficient capital or equity to mitigate the ongoing financial and operational risks of the business. The capital/equity requirement must be met in the form of either cash or earning assets contributed to the business and reflected on the borrower's balance sheet. Transfers of assets at fair market value between related parties, which are

not arm's length transactions, must be in accordance with GAAP and require evidence that the transaction was entered into at market terms. Equity cannot include appraisal surplus or bargain purchase gains. Subordinated debt may be included when the subordinated debt is in exchange for cash injected into the business that remains in the business for the life of the guaranteed loan. The note or other form of evidence must be submitted to the Agency in order for subordinated debt to count towards meeting the balance sheet equity requirement. Balance sheet equity will be determined based upon current and projected borrower financial statements. A balance sheet as of loan closing is required and should reflect the new debt and use of proceeds. If there are multiple borrowers, consolidated financial statements should be presented. The following capital and equity requirements must be met at the time of lender's closing of the guaranteed loan.

(1) * * *

(iii) Owner contributed capital, as reflected in the equity section of the balance sheet, that is equal to or greater than 10 percent of net total fixed assets plus depreciation.

* * * * *

■ 14. Amend § 5001.106 by revising the introductory text, paragraphs (d)(2), (e)(2) and (e)(3) introductory text to read as follows:

§ 5001.106 Eligible REAP—Renewable Energy System (RES) projects and requirements.

For a REAP RES project to be eligible for a loan guarantee under this part, it must meet the criteria specified in § 5001.102(a) through (c) and in paragraphs (a) through (e) of this section and be for a borrower eligible to submit an application for the project in accordance with § 5001.126.* * *

* * * * *

(d) * * *

(2) The borrower may install or elect to conditionalize funding upon the installation of a device (such as a second meter) that results in 100 percent of the energy generated by the RES project to be used only by the agricultural operation or rural small business.

* * * * *

(e) * * *

(2) *Pass/pass with conditions/fail assignments.* The Agency will assign each area of the technical report, as specified in paragraph (e)(1) of this section, a "pass," "pass with conditions," or "fail." An area will

receive a "pass" if the information provided for the area has no weaknesses and meets or exceeds any requirements specified for the area. An area will receive a "pass with conditions" if the information provided for the area has minor weaknesses which could be conditioned and reasonably resolved by the borrower. Otherwise, if the information provided for the area is conclusively deemed to be a major weakness, or if the area has not been addressed by the applicant, the area will receive a fail.

(3) *Determination.* The Agency will compile the results for each area of the technical report to determine if the project has technical merit.

* * * * *

■ 15. Amend § 5001.107 by revising and republishing paragraph (a) to read as follows:

§ 5001.107 Eligible REAP—Energy Efficiency Improvement (EEI) projects and requirements.

* * * * *

(a) The EEI project must use less energy on an annual basis than the original building and/or equipment that it will improve or replace as demonstrated in an energy assessment or energy audit as applicable.

(1) If the project's total project cost is greater than \$80,000, the energy assessment must be conducted by an energy auditor, an energy assessor, or an individual supervised by either an energy assessor or energy auditor. The final energy assessment must be validated and signed by the energy assessor, the energy auditor who conducted the energy assessment, or by the supervising energy assessor or energy auditor of the individual who conducted the assessment, as applicable.

(2) If the project's total project cost is \$80,000 or less, the energy assessment may be conducted in accordance with paragraph (a)(1) of this section or by a person that has at least 3 years of experience and completed at least five energy assessments or energy audits on similar type projects. Eligible EEI include, but are not limited to:

(i) Efficiency improvements to existing RES; and

(ii) Construction of a new building only when the new building is used for the same purpose as the existing building and if, based on an energy assessment or energy audit, as applicable, it is more cost effective to construct a new building that will use less energy on annual basis than to improve the energy efficiency of the existing building.

* * * * *

■ 16. Amend § 5001.108 by revising the introductory text to read as follows:

§ 5001.108 Eligible REAP—Energy Efficient Equipment and Systems (EEE) projects and requirements.

For a REAP EEE project to be eligible for a loan guarantee under this part, it must meet the criteria specified in § 5001.102(a) through (c) and in paragraphs (a) through (d) of this section and be for a borrower that is an agricultural producer eligible to submit an application for the project in accordance with § 5001.126. The EEE project can be located in a rural or non-rural area as long as the energy efficient equipment or systems are used for agricultural production or processing in accordance with paragraph (a) of this section. If the borrower plans to use taxable bonds as debt instruments the provision § 5001.105(b)(19) must be met.

* * * * *

■ 17. Amend § 5001.115 by revising paragraphs (l), (n) and (r) to read as follows:

§ 5001.115 Ineligible projects—general.

* * * * *

(l) Telephone systems. In certain circumstances, when not eligible for assistance through the Agency's telecommunications program these projects may be eligible for assistance under this part.

* * * * *

(n) Except as provided in § 5001.105(b)(8), owner-occupied housing. Owner-occupied housing, such as bed and breakfasts, and hotels and motels, are only eligible when the pro-rata value of the owner's living quarters, based on square footage, is deducted from the loan proceeds.

* * * * *

(r) Loans supporting inherently religious activities, such as worship, religious instruction, proselytization, or to pay costs associated with acquisition, construction, or rehabilitation of structures for inherently religious activities, including the financing of multi-purpose facilities where religious activities will be among the activities conducted. However, religious organizations may participate in projects eligible for funding under section 306(a)(24) of the Consolidated Farm and Rural Development Act, 7 U.S.C. 1926(a)(24), provided they do not use Agency assistance for inherently religious activities in accordance with 7 CFR part 16, "Equal Opportunity for Religious Organizations." If an organization conducts religious activities, they must be offered

separately, in time, or location from programs or services supported with the guaranteed loan. Participation in the religious activities must be voluntary, and not mandatory, for the beneficiaries of the program or services. Religious organizations may not discriminate against a beneficiary or prospective beneficiary, on the basis of religion or religious beliefs. Sanctuaries, chapels, or other rooms that are used as a principal place of worship are ineligible for guaranteed financing under this part.

* * * * *

■ 18. Amend § 5001.116 by revising paragraphs (b) and (e) to read as follows:

§ 5001.116 Ineligible CF projects.

* * * * *

(b) Inherently commercial enterprises: This type of project is typically operated by a private enterprise with an essential characteristic to produce profits. This term does not include projects operated by private enterprises on a not-for-profit basis that provide education, childcare, geriatric care, or health care to rural communities. Inherently commercial enterprises include but are not limited to: grocery stores; television and radio services or facilities; that portion of a water and/or waste disposal facility normally provided by a business or industrial user; and telecommunication facilities or services, including broadband or fiber network services that do not meet the requirements of § 5001.103(a)(6). See § 5001.103(d) for the eligibility of a commercial enterprise leasing space in an eligible project;

* * * * *

(e) Projects involving the purchase of existing facilities in which the transaction's purpose is to primarily retire the debt of the seller in order for the seller to continue to use the facility at a lower cost. Characteristics of ineligible purchase transactions may include the following:

(1) An entity, which may or may not be an eligible CF borrower, forms a new eligible entity or uses an existing eligible related entity to purchase all or part of its assets;

(2) The new entity uses CF guaranteed loan funds to purchase the assets at the agreed upon price and leases the assets back to the seller, generally at a rate which equates to the new debt payments; and

(3) The seller uses the proceeds of the sale to retire its high-cost debt and continues to use the facilities at a lower cost.

■ 19. Amend § 5001.121 by revising the introductory text, paragraphs (a)(2), (a)(3)(iv), (b), (c)(6), (d) introductory

text, and (d)(14) introductory text to read as follows:

§ 5001.121 Eligible uses of loan funds.

Guaranteed loan funds can only be used for the items specified in this section and any other items the Agency identifies in the **Federal Register**. In addition, RD may allow a recipient of a loan guarantee under this part to use up to 10 percent of project funds to construct, improve, or acquire broadband infrastructure subject to the requirements of 7 CFR part 1980, subpart M.

* * * * *

(a) * * *

(2) To pay the cost of conduit, such as pipe, tube, or tile for protecting electric wires or cables, and its installation in conjunction with financing facilities authorized in § 5001.103, when the cost of the conduit is less than 25 percent of the total project cost and the conduit is not essential to the operation of the eligible essential facility or service to be financed. The borrower must be the owner of the conduit. The conduit must be installed at the time of project construction and must be for public use. A project example is construction of a road. While work is being completed in preparation for the eligible road project, the borrower takes advantage of the construction to install underground conduit in anticipation of installing fiber optic cables in the near future.

(3) * * *

(iv) Interest on guaranteed loans until the facility is self-supporting, but not for more than three years; interest on guaranteed loans secured by general obligation bonds until tax revenues are available for payment, but not for more than two years; and when the borrower obtains interim financing for the eligible project, the guaranteed loan proceeds may be used to pay off the interim financing as well as the interest on interim financing;

* * * * *

(b) *WWD projects*. Guaranteed loan funds for a WWD project receiving a loan guarantee may be used to pay the following:

(1) Constructing, extending, or otherwise improving an eligible facility outlined in § 5001.104(a), and may include the cost of materials and labor in addition to the following:

(i) Cost of acquiring interests in land, rights (e.g., water rights, leases, permits, rights-of-way), and other evidence of land or water control or protection necessary for development of the project.

(ii) Purchasing or renting equipment necessary to construct, or extend the facility services, for owner construction.

(iii) Cost of additional borrower labor and other expenses necessary to install, extend, or protect the facility.

(iv) Interest incurred during construction in conjunction with interim financing, and the payoff of the interim loan with the permanent financing.

(v) Initial operating expenses, including interest, for a period ordinarily not exceeding one year when the borrower is unable to pay such expenses, for construction of a new facility. The lender must provide justification and the Agency must document the reason for granting the longer time.

(vi) Professional service fees and charges provided the Agency approves the amounts as reasonable and customary in the area.

(vii) Water reuse, renewable energy, and other construction projects to improve the sustainability or resilience of an eligible facility.

(2) Stand-alone projects not involving construction may also be made for the following purposes:

(i) Costs of acquiring interests in land, rights (e.g., water rights, leases, permits, rights-of-way), and other evidence of land or water control or protection necessary for the maintenance or operation of the facility.

(ii) Purchase of equipment to operate, maintain, or protect facilities, such as computers, generators, vehicles, backhoes, meters, pipe, and pumps, etc. The purchase of equipment must include installation and not be for the sole purpose of increasing inventory. Owner construction or installation is an option.

(iii) The purchase or acquisition of existing facilities when it is necessary either to improve service or prevent the loss of service.

(iv) The purchase and installation of RESs for use by an eligible facility (even if it does not include construction).

(v) Planning, studies, and designs for incorporating renewable energy or water reuse, or to improve the sustainability or resilience of an eligible facility.

(vi) The Agency may allow a recipient of a loan guarantee under this part to use up to 10 percent of project funds to construct, improve, or acquire broadband infrastructure subject to the requirements of 7 CFR part 1980, subpart M.

(vii) Professional service fees for engineering and environmental services that provide services for preplanning evaluation procedures, such as leak detection, or inflow and infiltration

analysis, as reasonable and customary in the area to evaluate an existing facility's need for improvements or repairs. Such services will be in accordance with professional service agreements with copies of analysis to be provided in the application package for such reports as preliminary engineering report, final design with plans and specifications, bidding documents, or the completed environmental review analysis.

(viii) Refinancing in accordance with § 5001.102(d).

(3) Other expenses related to any project under (b)(1) and (2), including:

(i) Guarantee fees, as determined under § 5001.454.

(ii) Lender fees, as provided in § 5001.403.

(iii) Payoff of interim financing including principal and interest.

(c) * * *

(6) Takeout of interim financing: Guaranteeing a loan that provides for permanent, long-term financing after project completion to pay off a lender's interim loan will not be treated as debt refinancing provided that the lender submits a complete request for preliminary eligibility review or complete application that proposes such interim financing prior to closing the interim loan. The borrower must take no action until the conclusion of the environmental review process prior to any action that would have an adverse effect on the environment or limit the choices of any reasonable alternatives to be considered by the Agency. Interim financing is typically used to pay costs associated with a planned project, such as construction or installation of equipment, however, the Agency will consider, on a case-by-case basis, other reasons to use interim financing. The term for interim financing loans should be for the construction period plus a reasonable time for the business to begin generation of working capital to amortize the loan. Guaranteed promissory notes that do not convert the interim financing payment schedule to an amortizing permanent schedule in the same note are not allowed. In certain cases, the applicant lender may use interim financing to pay-off a borrower's maturing loan with another lender if it is in the best interests of the borrower. The takeout of interim financing is only eligible when the permanent loan on which the guarantee will be placed takes out the interim financing that financed the planned project and when the lender submits a complete preliminary eligibility review or application to the Agency that proposes the interim financing prior to closing the interim loan. If the interim financing does not meet these requirements, it is

considered debt refinancing and must comply with § 5001.102(d). If the guarantee is issued prior to construction, the promissory note must contain and convert the terms of the interim financing to permanent financing. The Agency will not guarantee takeout of interim financing loans that prevent a meaningful environmental assessment prior to Agency loan approval. Even for projects with interim financing, the Agency cannot approve the loan nor issue a conditional commitment until the environmental process is complete. The Agency assumes no responsibility or obligation for interim loans.

* * * * *

(d) *REAP projects.* Guaranteed loan funds for a project receiving a loan guarantee under REAP may be used to pay the expenses associated with the items identified in paragraphs (d)(1) through (14) of this section, provided such items are directly related to and their use and purpose are limited to the RES, EEI, or EEE project. The expenses associated with the items specified in paragraphs (d)(8) through (11) of this section cannot exceed more than ten percent of the loan amount. Ten percent is an aggregate amount, not ten percent for each item.

* * * * *

(14) Refinancing outstanding long-term debt. It is not considered refinancing if loans were structured as construction or bridge loans for short-term financing needs (interim financing) in preparation for a long-term loan. Refinancing will be considered when—

* * * * *

■ 20. Amend § 5001.122 by revising the introductory text and paragraphs (a), (k) and (l), and adding paragraph (n) to read as follows:

§ 5001.122 Ineligible uses of loan funds.

Projects that receive a loan guarantee under this part cannot use the guaranteed loan funds for those expenses or purposes identified in paragraphs (a) through (n) of this section and for any other item the Agency identifies in accordance with § 5001.10.

(a) Payment in excess of actual costs (e.g., profit, overhead, indirect costs, and wages to owners) incurred by the contractor or other service provider on a contract or agreement that has been entered into at less than an arm's length transaction or has a potential for a conflict of interest. In situations where there is common ownership or an otherwise closely related company is being paid to do construction or installation work for a borrower, only documented costs associated with the

construction or installation can be paid with guaranteed loan funds and cannot include any profit or wages to such related person.

* * * * *

(k) Agricultural tillage equipment, used equipment, and vehicles are ineligible for loans as specified under REAP. Costs include costs for RES and/or EEI projects that are used to improve a vehicle's ability to propel itself are ineligible uses for loan funds. For example, modifying an existing vehicle's engine to run on renewable fuels or replacing an older vehicle with a new more efficient vehicle are ineligible uses of loan funds. Projects similar to purchasing and installing solar panels to power a refrigerator or the replacement of a refrigerator for a more efficient one on a food truck may be considered eligible uses of loan funds if all other borrower and project eligibility requirements are met.

(l) Distribution or payment to an individual or entity that will retain an ownership interest in the borrower or distribution or payment to a beneficiary of the borrower. Distribution or payment to a member of the immediate family of an owner, partner, or stockholder will not be permitted, except for change in ownership interest and the Agency determines the price paid to be reasonable based upon an appraisal. This prohibition does not apply to transfers of ownership for ESOPs or worker cooperatives, to cooperatives where the cooperative pays the member for product or services, or where member stock is transferred among members of the cooperative in accordance with § 5001.140 of this part. This paragraph does not preclude the former owner from remaining an employee of the business during a reasonable transition period. The payment of personal debt is considered a distribution or payment to an owner, except for the refinancing of debt for an asset that is used in the business when the owner is a co-borrower on the loan.

* * * * *

(n) Lease payments, including lease to own or capitalized leases. This does not preclude a REAP applicant from leasing out REAP financed and installed equipment to a third party (lessee) such as a non-profit, school district, or municipal government. The third party (lessee) must directly utilize the equipment to fulfill the statutory purposes of REAP, to generate renewable energy or provide energy savings. The borrower must maintain ownership and control of the project for the entire useful life of the project, including site, income and expenses via

the lease agreement. Additionally, all other REAP requirements, must be reviewed in this scenario to ensure complete eligibility is obtained with a lease in place. This includes, but is not limited to, project eligibility, including prohibitions on residential use and other prescribed eligible project costs. A REAP applicant may lease out a commercial building, improved with REAP funds, to various tenants. This may include an office complex in which a Federal Government Agency is a tenant. This is allowable as long as conflict of interest requirements are complied with.

■ 21. Amend § 5001.126 by revising the introductory text, paragraphs (a) introductory text, (a)(1), (b)(2)(i), (c)(2), (d)(3) introductory text, (d)(3)(iii), (d)(4), (e)(1) and (2) to read as follows:

§ 5001.126 Borrower eligibility.

To be eligible for a loan guarantee under this part, a borrower must meet the requirements specified in this section at the time of each guaranteed loan's approval and through issuance of the loan note guarantee. A borrower must meet the eligibility requirements specified in paragraph (a) of this section and in paragraphs (b) through (e), as applicable, of this section.

(a) *Legal authority and responsibility.* The borrower must have, or obtain before issuance of the loan note guarantee, the legal authority necessary to construct, operate, and maintain the proposed facility and services and to obtain, give security for, and repay the proposed loan.

(1) *Operate and maintain the facility.* The borrower is responsible for operating, maintaining, and managing the facility and providing for its continued availability and use. The borrower will retain this responsibility even though the facility may be operated, maintained, or managed by a third party under contract, management agreement, or written lease. Leases may be used for certain projects when they are the only feasible way to provide the service or facility, are the customary practice to provide such service or facility within the industry or in the State and provide for the borrower's management control of the project. Contracts, management agreements, or written leases must not contain options or other provisions for transfer of ownership unless approved by the Agency. The borrower must own and retain control of the facility at all times; however, various types of ownership structures are permitted to bring in passive investor equity. These include but are not limited to partnership flips and inverted leases, which are common

in the renewable energy industry. The anticipated release of passive tax credit investor entities resulting in a change in ownership control that does not impact the financial performance of the loan, as outlined at time of loan closing, does not constitute a transfer or assumption, nor require concurrence from the Agency.

* * * * *

(b) * * *

(2) * * *

(i) Association with or control by a public body or bodies typically evidenced in the organizational documents of the borrower; or

* * * * *

(c) * * *

(2) *Credit elsewhere.* In accordance with 7 U.S.C. 1983, certify in writing, subject to Agency verification, that the borrower is unable to finance the proposed project from their own resources or through commercial credit without a guarantee, at reasonable rates and terms. A loan guarantee will not be provided to borrowers who are able to obtain sufficient credit elsewhere to finance project costs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near where the borrower resides, for loans for similar purposes and periods of time, or to borrowers who are able to finance project costs from their own resources. All lenders are required to provide written certification that their borrowers are unable to afford commercial credit at reasonable rates and terms without the guarantee.

* * * * *

(d) * * *

(3) A borrower who is an individual must meet the requirements of (i) through (iii) below. Applications will neither be approved, nor a conditional commitment issued subject to meeting the citizenship requirement.

* * * * *

(iii) Be a citizen or resident of the Republic of Palau, the Federated States of Micronesia, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Republic of the Marshall Islands.

(4) A borrower must demonstrate, to the Agency's satisfaction, that guaranteed loan funds will remain in the United States and the project being financed will primarily create new or save existing jobs for rural U.S. residents. To ensure that loan funds remain in the United States, loans must be collateralized with fixed assets that remain in the United States.

(e) * * *

(1) *Type of borrower.* The borrower must be either an agricultural producer or a rural small business if applying for RES or EEI funding. The borrower must be an agricultural producer if applying for EEE funding. For-profit rural small businesses that provide long-term care services that benefit residents, such as nursing homes and assisted living facilities, are eligible. For-profit rural small businesses that provide short-term housing, such as hotels, are also eligible. Newly formed special purpose entities or equivalents that are clearly created solely for the circumvention of provisions prohibited by REAP statute are not eligible.

(2) *Ownership.* The borrower at the time of application or no later than guaranteed loan closing and for the term of the guaranteed loan must:

(i) Own the project; and

(ii) Own or control the site for the project at the time of application and for the term of the guaranteed loan.

* * * * *

■ 22. Amend § 5001.127 by revising paragraphs (a) introductory text, (a)(3), (a)(4), (d), and (f) to read as follows:

§ 5001.127 Borrower ineligibility conditions.

* * * * *

(a) An entity is ineligible if any of the conditions identified in paragraphs (a)(1) through (4) of this section applies to the borrower, any owner with more than 20 percent ownership interest in the borrower (does not include passive investors), or any owner with control of the borrower. Entities with delinquent debt, as identified in paragraphs (a)(1) through (a)(4), under a repayment plan are not eligible until the debt is paid in full.

* * * * *

(3) Delinquency on Federal debt.

(4) Debarment or suspension from receiving Federal assistance. The lender is responsible for verification of the borrower's status. Verification can be done at *sam.gov*.

* * * * *

(d) An entity is ineligible if it derives income from illegal drugs, drug paraphernalia, or any other illegal product or activity as defined under Federal statute. A borrower that intends to lease space or enter into a power purchase agreement with a marijuana dispensary is not eligible given our borrower would be receiving income from the marijuana operation which is a violation of Federal laws as marijuana is a controlled substance under Federal law and subject to Federal prosecution

under the Controlled Substances Act (21 U.S.C. 812).

* * * * *

(f) An entity is ineligible if its lender or any of the lender's officers has an ownership interest in the borrower or is an officer or director of the borrower with management control or where the borrower or any of its officers, directors, stockholders, or other owners have more than a five percent ownership interest in the lender. Any of the lender's directors, stockholders, or other owners that are officers, directors, stockholders, or other owners of the borrower without management control or ownership less than 5 percent must be recused from any decision-making process associated with the guaranteed loan.

* * * * *

■ 23. Amend § 5001.130 by:

■ a. Redesignating (a)(3) through (a)(6) as (a)(4) through (a)(7) and adding new paragraph (a)(3);

■ b. Revising paragraphs (c)(1)(iii), (c)(2) introductory text, (c)(2)(viii)(H), (c)(4) introductory text, (c)(4)(iv);

■ c. Adding paragraph (c)(4)(v);

■ d. Revising paragraphs (d)(2) introductory text, (d)(4) introductory text, and (d)(4)(iv) ; and,

■ e. Adding paragraph (d)(4)(v).

The additions and revisions read as follows:

§ 5001.130 Lender eligibility requirements.

* * * * *

(a) * * *

(3) Be free from default and delinquency on any debt owed to the Federal Government;

* * * * *

(c) * * *

(1) * * *

(iii) Have and agree to maintain balance sheet equity in accordance with § 5001.105(d) of this part of at least 10 percent of assets and sufficient funds available to disburse the guaranteed loans it proposes to approve within the first six months of being approved as a lender;

* * * * *

(2) *Written request.* A non-regulated lending entity that seeks to become a lender must submit a written request to the Agency via *OneRDlenderapproval@usda.gov*, and must include the following information:

* * * * *

(viii) * * *

(H) Proposed interest rate structure and loan fees, including any loan origination, loan preparation, and servicing fees.

* * * * *

(4) *Renewals.* To maintain its status as an approved lender, the non-regulated

lending entity must submit a written request to the Agency for renewal of its approved lender status at least 60, but not more than 120, calendar days prior to the expiration of the existing lender's agreement to be assured of a timely renewal. A review of the lender's performance will be completed to determine whether the lender has continually met the eligibility criteria described in paragraphs (c) and (d) of this section. The lender's activity in the program and its delinquency/default rate will also be considered when making a determination regarding renewal. Any action by the lender since it was designated an eligible lender that could be cause for revoking its status, in accordance with § 5001.132, will be considered cause for denying the renewal of eligible status. The lender will be notified in writing whether the request is approved, reasons for denial, or any conditions the lender must meet for approval. The lender's written request must provide the information specified in paragraphs (c)(2)(i) and (iii) through (v) of this section; and

* * * * *

(iv) The Agency may require lenders with limited guaranteed loan activity over the previous five years, or a lender that has originated guaranteed loans with servicing issues or a loss to the Agency, to resubmit all the information required by paragraph (c)(2) of this section. A lender who is not active in the Agency guaranteed loan programs should provide evidence that they remain active in other commercial lending activity with acceptable underwriting and servicing performance. Lenders with loans that cause a loss to the Agency are a concern and those projects will be reviewed to determine the cause of the loss, including whether the lender's analysis or servicing processes were insufficient.

(v) The renewal will be for a term of 5 years.

(d) * * *

(2) *Written request.* A non-regulated lending entity serving Tribal trust lands that seeks to become a lender must submit a written request to the Agency via *OneRDlenderapproval@usda.gov* that includes the following information:

* * * * *

(4) *Renewals.* To maintain its status as an approved lender, the non-regulated lending entity serving Tribal trust land must submit a written request to the Agency for renewal of its approved lender status at least 60 and not more than 120 calendar days prior to the expiration of the existing lender's agreement to be assured of a timely renewal. A review of the lender's

performance will be completed to determine whether the lender has continually met the eligibility criteria described in paragraphs (c) and (d) of this section. The lender's activity in the program and its delinquency/default rate will also be considered when making a determination regarding renewal. Any action by the lender since it was designated an eligible lender that could be cause for revoking its status, in accordance with § 5001.132, will be considered cause for denying the renewal of eligible status. The lender will be notified in writing whether the request is approved, reasons for denial, or any conditions the lender must meet for approval. The lender's written request must provide the information specified in paragraphs (c)(2)(i) and (iii) through (v) of this section; and

* * * * *

(iv) The Agency may require lender with limited guaranteed loan activity over the previous five years, or a lender that has originated guaranteed loans with servicing issues or a loss to the Agency, to submit updated information required by paragraph (c)(2) of this section.

(v) The renewal will be for a term of 5 years.

* * * * *

■ 24. Revise § 5001.131 to read as follows:

§ 5001.131 Lender's agreement.

When approved to participate as a lender under this part, the lender must execute a lender's agreement before the Agency will issue a loan note guarantee. A new lender's agreement must be executed with any existing lender making new loans on or after October 1, 2020. Approval under one program is approval for all programs. The eligibility expiration date for non-regulated lenders will be five years from the date of the original execution of a lender's agreement as specified in § 5001.130(c) and (d). There will be only one lender's agreement issued for each lending entity based on their tax identification number. Lender's agreements will not be issued for individual branches. Subsequent loans do not require a new lender's agreement. A lender who fails to renew its lender's agreement and loses its approved lender status must continue to service any outstanding guaranteed loans in conformance with the lender's agreement last in effect and the applicable regulation under which the lender became an approved lender. Such lenders cannot submit requests for new loan guarantees.

* * * * *

■ 25. Amend § 5001.132 by revising paragraphs (a)(3) and (4), (b) introductory text, (b)(14), and (c) to read as follows:

§ 5001.132 Maintenance of approved lender status.

* * * * *

(a) * * *

(3) Is a regulated lending entity and fails to remain in good standing with its regulator;

(4) Is a non-regulated lending entity and fails to renew its approval status within 5 years of the expiration date of the lender's agreement.

(b) *Revocation of approved status and debarment of lender.* The Agency can revoke a lender's status as an approved lender at any time for cause as specified in the lender's agreement. A decision to revoke a lender's approved status will be made by the Agency and the lender will be notified in writing. The revocation may apply to all branches of the lender, specific branches, or personnel, as appropriate. The lender must revoke the level II eAuthentication privileges of all individuals included in the revocation notice. Cause for revoking lender status includes, but is not necessarily limited to, the circumstances identified in paragraphs (b)(1) through (14) of this section.

* * * * *

(14) Violation of applicable nondiscrimination laws, including, but not limited to, statutes, regulations, USDA Departmental Regulations, the USDA Non-Discrimination Statement, and the Equal Credit Opportunity Act. USDA's Non-Discrimination Statement is located on the Agency's website, see usda.gov/non-discrimination-statement. In addition to revoking the lender's status, the Agency may debar the lender in compliance with 2 CFR part 180.

(c) *Servicing of outstanding loans.* Any lender who loses its status as an approved lender under any of the conditions identified in paragraph (a) or (b) of this section must reapply under the provisions of § 5001.130 to be reinstated as an approved lender. A lender who loses its approved lender status must continue to service any outstanding guaranteed loans in conformance with the lender's agreement last in effect and the applicable regulation under which the lender became an approved lender. In addition, such lenders cannot submit requests for new loan guarantees.

■ 26. Amend § 5001.140 by revising paragraphs (a)(4), (b) introductory text and (d)(3) to read as follows:

§ 5001.140 Cooperative stock/cooperative equity.

* * * * *

(a) * * *

(4) The lender will, at a minimum, obtain a valid lien on the stock, an assignment of any patronage refund, and the ability to transfer the stock to another party, or any other right or ability necessary to liquidate and dispose of the collateral in the event of a default by the borrower. The lender and borrower understand that the borrower is fully liable for the entire debt, regardless of the success or failure of the cooperative. The lender is expected to maximize recovery on the loan, including collection of personal, partnership and corporate guarantees. In addition, provisions of the DCIA may impose significant restrictions on delinquent Federal debtors, including eligibility for other Federal programs.

* * * * *

(b) *Purchase of transferable stock shares.* The Agency may also guarantee loans for the purchase of transferable stock shares of any type of existing cooperative, which would primarily involve new or incoming members. Such stock may provide delivery or some form of participation rights and may only be traded among cooperative members. The lender and borrower understand that the borrower is fully liable for the entire debt, regardless of the success or failure of the ESOP. The lender is expected to maximize recovery on the loan, including collection of personal, partnership and corporate guarantees. In addition, provisions of the DCIA may impose significant restrictions on delinquent Federal debtors, including eligibility for other Federal programs.

* * * * *

(d) * * *

(3) The lender must, at a minimum, obtain a valid lien on the stock, an assignment of any patronage refund, and the ability to transfer the stock to another party, or otherwise liquidate and dispose of the collateral in the event of a default by a borrower. The lender and borrower understand that the borrower is fully liable for the entire debt, regardless of the success or failure of the cooperative or ESOP. The lender is expected to maximize recovery on the loan, including collection of personal, partnership and corporate guarantees. In addition, provisions of the DCIA may impose significant restrictions on delinquent Federal debtors, including eligibility for other Federal programs.

* * * * *

■ 27. Amend § 5001.141 by:

- a. Revising the section heading, the introductory text, and paragraphs (b)(1)(iii), (b)(4), (6) and (8); and
- b. Adding (b)(14).

The revisions and addition read as follows:

§ 5001.141 New Markets Tax Credits Program.

The New Markets Tax Credits (NMTC) Program is administered by the U.S. Department of the Treasury's (Treasury) Community Development Financial Institutions (CDFI) Fund with NMTC credits allocated to Treasury-certified Community Development Entities (CDE) across the United States to make Qualified Equity Investments (QEI) in low-income communities. NMTC related definitions and terms in this section are governed by section 45(D) of the Internal Revenue Code (26 U.S.C. 45D), and applicable Treasury regulations (26 CFR 1.45D–1). A CDE will generally establish a new subsidiary of a CDE (sub-CDE) for individual NMTC projects. Lenders and their borrowers with guaranteed loan projects that include NMTC investments must comply with the provisions in this section. To be a lender for a guaranteed loan project that involves financing under the NMTC provisions, the lending entity must meet the applicable eligibility criteria in § 5001.130. The Agency will not waive its servicing rights to a guaranteed loan or be a party to any forbearance agreement in conjunction with a NMTC project. Requests for loan guarantees that include NMTC are subject to all applicable program eligibility requirements, credit analysis, and due diligence required by part 5001. In all cases the Agency will undertake efforts to protect the best financial interests of the Federal government and collection of its guaranteed loan. The Agency will not consider any tax benefit or loss of tax benefits to the CDE, sub-CDE or NMTC investor in the servicing actions of a guaranteed loan.

* * * * *

(b) * * *

(1) * * *

(iii) When the borrower is a leveraged lender entity it must relend one hundred percent of the guaranteed loan funds to an investor fund entity. In all cases one hundred percent of the guaranteed loan funds are or will be invested by the investment fund entity in one or more sub-CDEs that will then be loaned directly to a QALICB, as defined by applicable regulations of the Internal Revenue Service, through a direct tracing method, and such guaranteed loan funds are, or will be used by the QALICB in accordance with

the eligibility requirements in subpart B of this part. The QALICB's project must be the ultimate use of one hundred percent of the guaranteed loan funds.

* * * * *

(4) The loan terms found in § 5001.402 of this part apply to both the borrower and the QALICB. The maturity and related payment schedule of the lender's guaranteed loan to the borrower must be no longer than the maturity and related payment schedule of the sub-CDE's loan to the QALICB. An Agency approved unequal or escalating schedule of principal and interest payments can be used for a NMTC loan. The lender may require additional principal repayment by a co-borrower, such as an owner or principal participant of the QALICB. The provisions of § 5001.402(b)(3) notwithstanding, the Agency may consider the payment of interest-only payments by a borrower pursuant to an interest-only term not to exceed seven years on a loan made under an NMTC structure if the lender requires:

(i) A debt repayment reserve fund or sinking fund in an amount at least equal to the guaranteed loan's principal amortization that would have otherwise applied to the loan if equally amortized payments were collected during the seven-year term; and

(ii) Such reserve funds or sinking funds are applied to the guaranteed loan as an additional payment of principal at the end of such interest-only term. The debt repayment reserve fund or sinking fund may be accumulated during the loan terms, or the full amount may be funded at loan closing.

* * * * *

(6) The personal, partnership and corporate guarantee provisions of § 5001.204 of this part apply when the guaranteed loan borrower is a leveraged lender entity in a NMTC project. Guaranteed loans made directly to an investor fund entity as the borrower do not require a personal, partnership, or corporate guarantee from the investor fund entity's owner, who is the NMTC tax credit investor and considered a passive investor. The Agency shall obtain the personal, partnership or corporate guarantee from the QALICB ownership for a guaranteed loan to an investor fund entity in compliance with § 5001.204, subject to the eligibility requirements of the NMTC program. The Agency may require additional personal, partnership or corporate guarantees if warranted by an Agency evaluation of potential financial risk. The QALICB is the ultimate user of the guaranteed loan funds, and their owners should provide a guarantee of the

guaranteed loan as stipulated in § 5001.204.

* * * * *

(8) The financial report provisions of § 5001.504 of this part apply to both the borrower and the QALICB.

* * * * *

(14) Agency concurrence of the NMTC structure is required on all projects leveraging the NMTC program.

* * * * *

■ 28. Amend 5001.202 by revising the introductory text, paragraphs (a), (b)(5) introductory text, and (b)(6)(iii), (iv) and (vi) to read as follows:

§ 5001.202 Lender's credit evaluation.

For each application, the lender must prepare a credit evaluation that is consistent with Agency standards found in this part. Lenders are required to only submit complete loan applications that have been approved by their institution after completion of their internal credit evaluation. The components of a lender's credit evaluation will include a written review and comment on the "Five Cs" of credit that are outlined in § 5001.202(b)(1) through (5). The Agency should be able to obtain sufficient details on the project, the borrower, and the borrower's ability to repay the loan from the lender's credit evaluation.

(a) *Lender's evaluation guidelines.* The lender must conduct a credit evaluation using credit documentation procedures and underwriting processes that are consistent with generally accepted prudent lending practices for commercial, public and project financing, and also consistent with the lender's own policies, procedures, and lending practices. The underwriting process must include a review of each loan for which a loan guarantee is being sought under this part. Applications involving affiliated entities must include a global credit evaluation and if applicable a global historical and projected debt service coverage analysis. The lender should evaluate the relationships between all associated parties to determine potential risks which may affect our borrower and its ability to repay the loan. Entities which may have an impact on the borrower or significantly contribute to the repayment ability of the loan should provide financials for global analysis. Applications involving guarantor(s) must also include a global debt service coverage analysis of the guarantor(s) including the cash flow of the guarantor(s). In addition, the lender must review all applicable contracts, management agreements, and leases to determine they will not adversely affect

either the borrower's repayment ability or the value of the collateral securing the guaranteed loan. The lender's evaluation must address any financial or other credit weaknesses of the borrower and project and discuss risk mitigation requirements imposed by the lender.

(b) * * *

(5) *Conditions.* This paragraph (b)(5) refers to the general business environment, including the regulatory environment affecting the business or industry, and status of the borrower's industry. Consideration will be given to items listed in paragraphs (b)(5)(i) through (ix) of this section and when applicable the lender should submit supporting documentation (e.g., feasibility study, market study, preliminary architectural or engineering reports, etc.) in accordance with §§ 5001.304 through 5001.307:

* * * * *

(6) * * *

(iii) Spreadsheets and analysis of the financial statements provided in accordance with § 5001.303, with appropriate ratios and comparisons with industry standards (such as Dun & Bradstreet or the Risk Management Association). The spreadsheets should enable a reviewer to easily scan the data, spot trends, and make comparisons. Steps taken or proposed to address any financial or industry weakness must be reasonable and adequately addressed.

(iv) Financial projections deviating from historical financial performance must be substantiated and documented. The borrower's projections should be consistent with their past performance. Increases to revenues, profit margins or profitability should be reasonable and substantiated in the analysis.

* * * * *

(vi) Operational cash flow analysis on a quarterly basis from the current financial statements through start-up or occupancy for projects involving construction when lenders are requesting the loan note guarantee prior to completion of construction. The lender and borrower are required to provide a construction schedule with their application for a loan guarantee prior to construction completion. The projected cash flow needs should mirror the quarterly construction costs as the project is being completed. The cash flow analysis must indicate whether this cash flow is being provided by the guaranteed loan, borrower equity, or other sources.

■ 29. Amend § 5001.203 by revising the introductory text, paragraphs (b), (c), (d)(1), (f) and (h) to read as follows:

§ 5001.203 Appraisals.

Appraisals of collateral are required as set forth in this section. The lender is responsible for ensuring that appraisal values adequately reflect the actual value of the collateral based on an arm's length transaction. Completed appraisals should be submitted when the application is filed. If the appraisal has not been completed when the application is filed, the lender must submit an estimated appraised value. Prior to the issuance of the loan note guarantee, the estimated value must be supported with an appraisal acceptable to the approval official. If an appraisal is received containing any value attributed to business valuation or as a going concern, the business valuation or going concern value must be deducted from the reconciled market value prior to discounting. The Agency expects that, for appraisals of existing facilities, the appraiser will physically visit the property unless prior permission from the Agency is obtained. Appraisals are not typically required when security consists of either a revenue or general obligation bond or liens on real estate for WWD projects which rely on revenues of the facilities for loan repayment.

* * * * *

(b) *Existing chattel.* The lender must obtain appraisal(s) for existing chattel collateral when its value exceeds \$250,000 and will be used to meet loan to value requirements.

(c) *Real estate.* The lender must obtain appraisals for real estate collateral when the value of the collateral exceeds \$250,000 or the current limitation established under the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) Public Law 101-73, 103 Stat. 183 (1989). Real estate and chattels with a value below these thresholds must be evaluated in accordance with the lender's primary regulator's policies relating to appraisals and evaluations or, if the lender is not regulated, in accordance with normal banking practices and generally accepted methods of determining value. For construction projects, the lender must obtain the "As is" market value and the "prospective" market value as of the date of construction completion to determine the value of the real estate property.

(d) * * *

(1) Each real estate appraisal must be conducted by an independent qualified appraiser in accordance with the USPAP or similar Agency approved standard. The appraiser must have the specific qualification, experience, and competency to appraise the type of

facility being financed. All real estate appraisals must meet the requirements contained in the FIRREA, and the appropriate guidelines contained in Standards 1 and 2 of the USPAP or similar Agency approved standard, and, unless approved by the Agency approval official, be performed by a State Certified General Appraiser licensed in the State in which the real estate is located.

* * * * *

(f) *Environmental considerations.* When the Agency will take a lien on real property, the real estate appraisals must include consideration of the potential effects from a release of hazardous substances or petroleum products or other environmental hazards on the market value of the collateral, as determined in accordance with the appropriate ASTM International Real Estate Assessment and Management environmental standards. Potential contamination that has been observed on the property or identified through research or interviews with individuals knowledgeable about the property should be immediately reported to the Agency.

* * * * *

(h) *Appraisal fees.* Unless otherwise stated in this part, appraisal fees or any other associated costs will not be paid by the Agency. Appraisal fees are eligible loan purposes. The Agency does not pay for appraisals required at the time of loan application. Appraisals for servicing actions are handled in accordance with section 5001 subpart F.

■ 30. Amend § 5001.204 by revising paragraphs (b)(2) and (3) to read as follows:

§ 5001.204 Personal, partnership, and corporate guarantees.

* * * * *

(b) * * *

(2) Guarantees from any person or entity owning less than a 20-percent interest or membership in the borrower; and

(3) Guarantees from persons whose ownership interest in the borrower is held indirectly through intermediate or affiliated entities.

* * * * *

■ 31. Amend § 5001.205 by revising and republishing paragraph (a), and revising paragraphs (b)(1), (e)(1), (e)(2)(iii), (iv), (vii) and (f)(1)(i) to read as follows:

§ 5001.205 General project monitoring requirements.

* * * * *

(a) *Design requirements.* The lender must ensure that all facilities

constructed with guaranteed loan funds are:

(1) Designed using accepted architectural, engineering, and design practices, taking into consideration any Agency comments when the facility is being designed;

(2) Designed in conformance to applicable Federal, Tribal, State, and local codes and requirements;

(3) Constructed to support operations at the level and quality contemplated by the borrower using accepted architectural and engineering practices; and

(4) Compliant with applicable domestic procurement preference requirements including section 70914 of the Build America, Buy America Act (BABAA) within the Infrastructure Investment and Jobs Act (Pub. L. 117–58).

(b) * * *

(1) Obtained valid, continuous, and adequate rights-of-way and easements, in compliance with Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) if applicable, needed for the construction, operation, and maintenance of a project; and

* * * * *

(e) * * *

(1) *Construction inspections.* The lender must notify the Agency of any scheduled field inspections during construction. The Agency may attend any field inspections the lender may conduct. Any Agency inspection, including those with the lender, are for the benefit of the Agency only (and not for the benefit of other parties in interest) and do not relieve any parties of interest of their responsibilities to conduct necessary inspections. On a case-by-case basis in the event that the Agency determines that there is additional risk to the government, the Agency may require the use of a qualified, independent inspector to inspect construction to ensure the project is being adequately built to meet the borrower's requirements of the borrower's approved project and comply with all applicable codes and legal requirements.

(2) * * *

(iii) The borrower and lender have agreed to a detailed timetable for the project with a corresponding budget of costs setting forth the parties responsible for payment. The timetable and budget will be confirmed as adequate for the planned development by a qualified independent consultant (e.g., the project architect or engineer) with demonstrated experience relating to the project's industry. The lender

must provide evidence that there is sufficient cash flow to complete the project construction, including contingencies for cost overruns, plus working capital during the business start-up period;

(iv) The borrower has entered into a firm, fixed-price construction contract with an independent general contractor with costs outlined in detail and terms specifying change order approvals, the agreed retainage percentage, and the disbursement schedule. In all cases, borrower equity must be injected prior to any guaranteed loan funds;

* * * * *

(vii) When applicable, the borrower has entered into a contract with an independent technology development firm guaranteeing completion of the project with the necessary technology to successfully run the project and system performance for projects that utilize integrated processing equipment and systems, such as biorefineries, RESs, and chemical manufacturing plants. The credit underwriting of the independent technology development firm must be satisfactory to and approved by the Agency. This is not limited only to renewable energy projects, but may include energy efficiency, renewable chemical, and biobased manufacturing projects. The intent of the provision is to ensure that all technology proposed for the project can be successfully integrated together to ensure successful installation and performance of the system. The respective technology providers usually guarantee their specific technology with quality parameters of input such that the end-product is what is proposed in both quality and yield. An engineering, procurement, construction (EPC) provider is responsible for the construction and assembly of the plant or facility. They adopt the quality limits and guarantee that the integrated facility that is built will perform according to specifications such that the input and operational bounds are met. The provision is likely applicable to the following types of projects:

(A) *Anaerobic digester.* An anaerobic digester project which uses a biological process that requires specific conditions and environment to be able to produce the product of biogas that can be refined to renewable natural gas (RNG). In some simpler cases the gas will be used for heat or electricity, but in other more involved cases, it will be cleaned and refined to make RNG that is marketable, and quality assessed to enter an interconnect pipeline. These types of projects should be approved and verified by an independent technology

firm, for integrated performance integrity and operability as well as yield integrity.

(B) *Landfill biogas.* Like anaerobic digesters projects, a landfill biogas project will have multiple steps and processes such as collection, clean-up, flaring and refinement to a fuel or the gas can be used to produce electricity. These types of projects should be approved and verified by an independent technology firm for integrated performance integrity and operability, as well as yield integrity.

(C) *Biofuel, biomass, ethanol, biodiesel.* A biofuel, ethanol, biomass, or biodiesel system will have multiple steps in which it must operate in line with the design proposed that has been from demonstration campaigns. It is paramount that an independent technology firm verify and guarantee the operation and performance of these integrated systems as they will have multiple processes which need to work in concert for the project to be successful. These types of projects should be approved and verified by an independent technology firm for integrated performance integrity and yield.

(D) *Solar thermal.* Solar thermal systems must have multiple processes in order to provide the end product of power, hot water, or heat. Due to their potential complexity, these systems should be approved and verified by an independent technology firm for performance integrity and operability.

(E) *Hydrogen.* These types of projects should be approved and verified by an independent technology firm for integrated performance integrity.

(F) *Geothermal.* Depending on system complexity and if it has multiple processes, the project should be fortified with a guarantee that the system will operate definitively.

(G) *Renewable chemical.* A project utilizing a series of chemical processes and reactions to produce a polymer that can be sold to make biodegradable plastics. An example of a BBP project utilizing gasification technology to produce a biochar or soil amendment as an end-user product.

* * * * *

(f) * * *

(1) * * *

(i) Certification by the independent engineer or qualified consultant to the lender that the work referred to in the draw has been successfully completed; and;

* * * * *

■ 32. Amend § 5001.206 by revising paragraph (b) to read as follows:

§ 5001.206 Compliance with USDA Departmental Regulations, Policies, and other Federal laws.

* * * *

(b) *Other Federal laws.* Lenders and borrowers must comply with other applicable Federal laws including, but not limited to the following:

- (1) Equal Employment Opportunity.
- (2) Americans with Disabilities Act.
- (3) Equal Credit Opportunity Act.
- (4) Fair Housing Act.
- (5) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA).
- (6) Section 70914 of the Build America, Buy America Act (BABAA) within the Infrastructure Investment and Jobs Act (Pub. L. 117–58).
- (7) 31 U.S.C. 3354 Do Not Pay Initiative.

■ 33. Amend § 5001.207 by revising paragraphs (a)(1), and (b)(2) to read as follows:

§ 5001.207 Environmental responsibilities.

* * * *

(a) * * *

(1) The lender is responsible for becoming familiar and ensuring compliance with Federal environmental requirements. The lender must alert the Agency to any environmental issues related to a project or items that may require extensive environmental review. Proposals that minimize the potential of any project to adversely impact the environment must be developed and provided upon request by the Agency.

* * * *

(b) * * *

(2) The lender must assist in the collection of additional data when the Agency needs such data to complete its environmental review of the project and mitigation of environmental issues.

■ 34. Revise § 5001.301 to read as follows:

§ 5001.301 Beginning the application process.

(a) The lender must file applications and related documents through their Agency contact.

(b) The lender may complete either a request for preliminary eligibility review in accordance with § 5001.302 or a full application in accordance with §§ 5001.303 through 5001.307, as applicable, to begin the process for obtaining a guaranteed loan. The Agency encourages, but does not require, lenders to file requests for preliminary eligibility reviews in order to obtain Agency comments before submitting a full application.

■ 35. Amend § 5001.303 by revising paragraph (c)(15) and (d) to read as follows:

§ 5001.303 Applications for loan guarantee.

* * * *

(c) * * *

(15) Securities and Exchange Commission (SEC) Form 10–K, “Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934,” as noted in § 5001.306(a)(4).

* * * *

(d) *Application modification.* Once a complete application is accepted by the Agency and prior to Agency award of a loan note guarantee, any modification to the application will be treated as a new application and the Agency will process the information accordingly. The submission date of record for a modified application is the date the Agency receives the modified application information.

■ 36. Amend § 5001.304 by revising the introductory text and (a)(4) introductory text to read as follows:

§ 5001.304 Specific application requirements for CF projects.

In addition to the requirements specified in § 5001.303 as applicable, a lender seeking a loan guarantee for a CF project must submit a financial feasibility report prepared by a qualified firm or individual acceptable to the Agency. All projects financed under this section must meet the financial feasibility requirements of this section and must be based on projected taxes, assessments, revenues, fees, or other sources of revenues in an amount sufficient to provide for project operation and maintenance, debt payments, and compliance with lender reserve requirements, when applicable. Other sources of revenue or existence of payment guarantors are particularly important in considering the feasibility of eligible recreation projects. The financial feasibility report must take into consideration any interest rate adjustment that may be instituted under the terms of the promissory note.

Financial projections for projects that are assisted living facilities, skilled nursing facilities, or similar types of eligible residential facilities must be based on no more than 90 percent occupancy. Utility projects dependent on user fees for debt repayment shall base their income and expense forecast on user estimates supported by either a State statute or local ordinance requiring mandatory hookup or signed and enforceable user agreements. If the primary use of the essential community facility is by a business and the success or failure of the facility is dependent on that business, then the economic viability of that business must also be assessed. For projects that include the

purchase and installation of RES that meet the eligibility requirements of § 5001.103(a)(8), a technical report on the RES as outlined in § 5001.307(e)(1) and (2), as applicable, will be included with the applicable financial feasibility report. The type of financial feasibility report required will depend upon the size of the guaranteed loan, the collateral securing the guaranteed loan, and the financial history of the borrower. The two types of financial feasibility report and when they are required are described in paragraphs (a) and (b) of this section.

(a) * * *

(4) The Agency may require a feasibility study when the lender’s analysis, borrower’s business plan, or project information is not sufficient to determine the technical feasibility, market feasibility, or economic viability of the project.

* * * *

■ 37. Amend § 5001.305 by revising paragraph (a)(2) and adding paragraph (d) to read as follows:

§ 5001.305 Specific application requirements for WWD projects.

* * * *

(a) * * *

(2) The lender must ensure that the project is designed utilizing accepted architectural and engineering practices and conforms to applicable Federal requirements (e.g., the seismic requirements of Executive Order 12699 (55 FR 835, 3 CFR, 1990 Comp., p. 269), the debarment requirements of 2 CFR part 180 as supplemented by 2 CFR part 417, American Iron and Steel (Section 746 of Title VII of the Consolidated Appropriations Act of 2017), and the Copeland Anti-Kickback Act (18 U.S.C. 874)); State, local and Tribal codes and requirements; and facility plans or plans and specifications reviewed and approved by the applicable State, local and/or Tribal regulatory agency. The lender must also ensure that the planned project will be completed within the available funds and once completed, will be suitable for the borrower’s needs. Upon completion of the project, the lender must certify that all applicable Federal requirements were met.

* * * *

(d) *Domestic procurement preference.*

(1) *American Iron and Steel (AIS).* Guaranteed loans must comply with AIS requirements. Lenders and borrowers are responsible for meeting the AIS requirements of Section 746 of Title VII of the Consolidated Appropriations Act of 2017 and the continuing resolutions adopted thereafter.

(2) *Build America, Buy America Act (BABAA)*. BABAA was enacted as part of the Infrastructure and Jobs Act (Pub. L. 117–58) on November 15, 2021 and became effective on May 14, 2022. Under Section 70914(a) of BABAA, “none of the funds made available for a Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States.” Additional information may be found on the Agency’s Build America, Buy America website at <https://www.rd.usda.gov/build-america-buy-america>.

(3) *Compliance*. Owners are ultimately responsible for compliance with the domestic procurement preference requirements and should consult with the Agency early in project development. Compliance must be certified to prior to the issuance of the loan note guarantee. The lender must include any domestic preference language, provided by the Agency, in the loan agreement and other appropriate loan documents.

* * * * *

■ 38. Amend § 5001.306 by revising paragraphs (a)(3) introductory text and (b) introductory text to read as follows:

§ 5001.306 Specific application requirements for B&I projects.

* * * * *

(a) * * *

(3) The Agency may require a feasibility study when the lender’s analysis, borrower’s business plan, or project information is not sufficient to determine the technical feasibility, market feasibility, or economic viability of the project.

* * * * *

(b) *Applications requesting a guaranteed loan in an amount of \$600,000 or less*. Guaranteed loan applications may be processed under this paragraph (b) if the amount of the guaranteed loan does not exceed \$600,000, provided the Agency determines that the lender’s analysis, borrower’s business plan, or other project or borrower information submitted by the lender is sufficient to determine the technical feasibility, market feasibility, and economic viability of the project. If any of the items in paragraphs (a)(1) through (4) of this section apply, the lender must collect the information and maintain it in their file. A lender may need to resubmit or modify an application if the application does not contain sufficient

information for the Agency to make an informed loan approval decision.

* * * * *

■ 39. Amend § 5001.307 by revising paragraphs (a)(1) and (2), (b) introductory text, (e) introductory text, (e)(1)(ii), (e)(1)(v) introductory text, (e)(1)(v)(A)(2) and (3), (e)(1)(v)(C)(2) and (3) to read as follows:

§ 5001.307 Specific application requirements for REAP projects.

* * * * *

(a) * * *

(1) Eligible borrowers must meet the definition of agricultural producer or rural small business as defined in § 5001.3. Agricultural producers seeking funding for a RES or EEI project may apply as either a rural small business or as an agricultural producer, provided they meet the applicable eligibility requirements. Agricultural producers seeking funding for an EEE project must be eligible and apply as an agricultural producer.

(2) The borrower must provide the primary NAICS code applicable to the borrower’s business concern and certify on the Agency approved application form or system that it meets the definition of agricultural producer or rural small business. The Agency reserves the right to request supporting documentation to verify borrower eligibility.

(b) *Borrower description*. Describe the ownership of the borrower, including the information specified in paragraphs (b)(1) through (3) of this section, as applicable. Include a description of the borrower’s existing farm, ranch, or business operation, including how long the borrower has been in operation. Rural small businesses and agriculture operations owned by Tribes should provide documentation to adequately show the separation of the applicant and the Tribal government.

* * * * *

(e) *Technical report*. All eligible projects must have technical merit and provide information as identified in § 5001.106(e), § 5001.107, or § 5001.108 and (e)(1) through (3) of this section.

(1) * * *

(ii) For RES projects, sufficient information to enable the calculation of the percentage of historical use of energy compared to the amount of renewable energy that will be generated once the project is operating at its steady state operating level. If the project is closely associated with a residence, satisfactory demonstration must be made that 50 percent or more of the projected renewable energy will

benefit the agricultural operation or rural small business; and

* * * * *

(v) For total project costs in the amount of \$80,000 or less, a technical report, as identified in § 5001.303(c)(16), prepared in accordance with the following paragraphs, as applicable:

(A) * * *

(2) Vendor/installer certification that the EEI project uses commercially available technology;

(3) Vendor/installer certified projections on the quantity of energy to be saved;

* * * * *

(C) * * *

(2) Vendor/installer certification that the EEE project uses commercially available technology;

(3) Vendor/installer certification of the proposed energy consumption quantity and price per unit of the energy efficiency equipment to be installed;

* * * * *

■ 40. Amend § 5001.315 by revising paragraphs (a) introductory text, (b) introductory text, (c)(1) and (2), (d)(4) and (e)(2) to read as follows:

§ 5001.315 Application evaluation and award provisions.

(a) *General*. The Agency will evaluate all applications according to the provisions of this part and may require the lender to obtain additional assistance in those areas where the lender does not have the necessary expertise to originate or service the guaranteed loan. For the purposes of this paragraph (a), “those areas” mean:

* * * * *

(b) *Evaluation and eligibility determinations*. The Agency will review each complete application to make a formal determination as to: the eligibility of the borrower, lender, project, and guaranteed loan purpose and proposed use of funds; if there is a reasonable assurance of repayment ability; if sufficient collateral and equity exists; if the proposed guaranteed loan complies with all applicable statutes and regulations; and if the environmental review is complete. The Agency will only guarantee loans that are sound and that have a reasonable assurance of repayment.

* * * * *

(c) * * *

(1) Lenders must provide necessary information related to determining the priority score, if requested by the Agency. To the extent possible, lenders should consider the established priorities of the Agency when submitting projects for a loan guarantee.

Higher scoring applications will receive first consideration for funding.

(2) The Agency may establish a minimum priority score for each guarantee program. The Agency will, if established, publish the minimum score in a document in the **Federal Register**. Applications that do not meet the applicable minimum score will compete with all other guaranteed loan applications for each specific program in a competition on the first business day of September of the Federal fiscal year in which the application is ready for funding.

* * * * *

(d) * * *

(4) If a lender agrees to the lower loan guarantee amount offered by the Agency under either paragraph (d)(1) or (2) of this section, the lender must certify that the purpose(s) of the project can still be met at the lower funding level and must provide documentation that the borrower has obtained the remaining funds needed to complete the project as originally proposed.

(e) * * *

(2) If an unfunded application has a priority score less than any applicable minimum score and remains unfunded after the competition held on the first business day of September of the fiscal year in which the application is ready for funding, the Agency will notify the applicant in writing and withdraw the application from further funding consideration.

* * * * *

■ 41. Amend § 5001.316 by adding a paragraph heading to paragraph (e) and paragraph and revising paragraph (e)(2) to read as follows:

§ 5001.316 CF project priority point system and reservation of funds.

* * * * *

(e) *Rural priority.* * * *

* * * * *

(2) On July 1 of each year, the Agency will evaluate the dollar amount of complete applications on hand for projects in rural areas with a population of not more than 20,000 inhabitants. The dollar amount of the complete applications will be subtracted from the reserved allocation identified in this paragraph (e) and the remaining amount will be made available through the end of the Federal fiscal year for projects in rural areas with a population of not more than 50,000 inhabitants.

■ 42. Amend § 5001.318 by revising paragraph (b) introductory text to read as follows:

§ 5001.318 B&I project priority point system.

* * * * *

(b) *Location priority.* An application is eligible to receive points under each of the categories identified in paragraphs (b)(1) through (3) of this section if the project is located within:

* * * * *

■ 43. Amend § 5001.319 by revising the introductory text, paragraphs (a) introductory text, (b)(1)(i) introductory text, (b)(2)(i) introductory text, (b)(2)(i)(A), (b)(2)(ii), (b)(2)(iii) introductory text, (d) introductory text, (e), (f) introductory text, (f)(1) introductory text and (g)(6) introductory text to read as follows:

§ 5001.319 REAP project priority point system.

This section applies to REAP projects seeking a loan guarantee. On a periodic basis, and subject to the availability of funds, the Agency will compete each complete and eligible RES, EEL, and EEE application that is ready to be funded and whose priority score, as determined in this section, meets, or exceeds the minimum priority score. Applications that do not meet the applicable minimum score will be considered as provided in § 5001.315(c)(2). A maximum score of 90 points is possible.

(a) *Environmental benefits.* The Agency will award up to 5 points under this criterion based on documentation or the applicant's indication in the application that the project will have a positive effect on resource conservation, public health, and the environment. If the project will have a positive impact on:

* * * * *

(b) * * *

(1) * * *

(i) *Renewable energy systems.* The quantity of energy generated or replaced per guaranteed loan dollar requested will be determined by dividing the projected total annual energy generated or replaced by the RES or RES retrofit (minus energy for residential use), which will be converted to BTUs, by the guaranteed loan dollars requested. Applications for retrofitting of a RES that are not projecting to increase the amount of renewable energy that the RES is generating, while still eligible for REAP, will not be awarded points under this criteria. Off-the-grid projects and direct-use projects which are not replacements, will be awarded points based on proposed energy generation. Points will be awarded under this sub-criterion based on the annual amount of energy generated or replaced (minus energy for residential use) per dollar of guaranteed loan amount requested for the RES project. The Agency will award up to 10 points as determined under

paragraph (b)(1)(i)(A) and (B) of this section below. If the annual amount of energy generated per dollar of guaranteed loan amount requested calculated under paragraph (b)(1)(ii) of this section is:

* * * * *

(2) * * *

(i) *Energy replacement.* The Agency will award points under this sub-criterion for an RES project based on the amount of energy replaced by the project compared to the amount of energy used by the applicable process(es) over a 12-month period. If the estimated energy produced is more than 150 percent of the energy used by the applicable process(es), the project will be scored as an energy generation project under paragraph (b)(2)(ii) of this section. When calculating the percentage of energy being replaced and whether it is categorized as a replacement or generation, the entire amount of energy produced by the new system will be used in the calculation, regardless of whether the project is being prorated because it shares a meter with a residence or if it has ineligible project costs.

(A) *Documentation for energy replacement.* For a RES project to qualify as energy replacement, the borrower must provide documentation in its application on prior energy use incurred by the borrower. Documentation must be shown that the borrower entity incurred the cost of the historical energy to be replaced, in order for the project to qualify as energy replacement. Replacement of existing direct use renewable energy can be considered in the replacement calculation as long as the borrower entity owns the existing RES system. For a project involving a recent acquisition, historical energy costs of the previous owner can be used to document prior energy use. Applicant entities cannot utilize historical energy costs of affiliate businesses to document prior energy use. Proposed energy use, such as that attributed to an expansion, is not considered in the replacement calculation. For a RES project involving new construction and being installed to serve the new facility, the project can be classified as energy replacement only if the borrower can document prior energy use from a facility that is within plus or minus 10 percent of the size of the facility it is replacing. The estimated quantities of energy must be converted to either BTUs, watts, or similar energy equivalents to facilitate scoring.

* * * * *

(ii) *Energy generation.* If the RES project is intended for production of

energy or is a proposed retrofit of an existing RES which increases the amount of energy generated, the Agency will award 10 points. Applications for retrofit of an RES that are not projecting to increase the amount of renewable energy that the RES is generating, while still eligible for REAP, will not be awarded points under this criteria. If the borrower cannot document prior energy use, the project will be scored as an energy generation project, regardless of whether or not there is an agreement in place to sell the power.

(iii) *Energy saved.* The Agency will award up to 15 points under this sub-criterion for an EEI project based on the percentage of estimated energy saved by the installation of the project as determined by the projections in the applicable vendor certification, energy assessment or energy audit. If the estimated energy expected to be saved over the same period used in the energy assessment or energy audit, as applicable, will be—

* * * * *

(d) *Previous grantees or borrowers.* The Agency will award up to 15 points under this criterion based on whether the borrower has received and accepted a REAP grant award under 7 CFR part 4280 or a guaranteed loan commitment under either this part or 7 CFR part 4280. Received and accepted means REAP grant funds were disbursed and/or a REAP loan note guarantee was issued by the Agency. The determination is based on the fiscal year in which the obligation was made.

* * * * *

(e) *Existing businesses.* A maximum of 5 points will be awarded for an existing agricultural producer business or rural small business that meets the definition of existing business in § 5001.3. The business must be in operation for at least one full year, not simply a year since legal business formation.

(f) *Simple payback.* A maximum of 15 points will be awarded for this criterion based on the simple payback of the project as defined in § 5001.3. Points will be awarded for either RES, EEI, or EEE; points will not be awarded for more than one category. See definition of simple payback for calculations. Simple payback calculations will be calculated based only on the documented information provided with the application.

(1) *Renewable energy systems.* RESs includes replacement, generation, and direct-use RES projects. If the simple payback of the project is:

* * * * *

(g) * * *

(6) The project is located in an area where 20 percent or more of its population is living in poverty, as defined by the United States Census Bureau, for the last 30 years; an underserved community; or an area which has experienced long-term population decline, or loss of employment.

* * * * *

■ 44. Revise and republish appendix C to subpart D of part 5001 to read as follows:

**Appendix C to Subpart D of Part 5001—
Technical Reports for Energy Efficiency
Improvement (EEI) Projects With Total
Project Costs of More Than \$80,000**

For all EEI projects with total project costs of more than \$80,000, provide the information specified in Sections A and D and in Section B or Section C, as applicable. If the application is for an EEI project with total project costs of \$80,000 or less, please see § 5001.307(e) for the technical report information to be submitted with your application.

If the application is for an EEI project with total project costs of \$200,000 and greater, you must conduct an energy audit (EA). However, if the application is for an EEI project with total project costs of less than \$200,000, you may conduct either an energy assessment or an energy audit. Energy audits that meet the American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHREA) Level II Energy Survey; Analysis and American National Standards Institute (ANSI); or American Society of Agricultural and Biological Engineers (ASABE) S162 Standard for performing on farm energy audits will be considered by the Agency to be acceptable audits.

Section A. Project Information

Describe how all the improvements to or replacement of an existing building and/or equipment meet the requirements of being commercially available. Describe how the design, engineering, testing, and monitoring are sufficient to demonstrate that the proposed project will meet its intended purpose, ensure public safety, and comply with applicable laws, regulations, agreements, permits, codes, and standards. Describe how all equipment required for the EEI(s) is available and able to be procured and delivered within the proposed project development schedule. In addition, present information regarding component warranties and the availability of spare parts.

Section B. Energy Audit

If conducting an EA, provide the following information.

(1) *Situation Report.* Provide a narrative description of the existing building and/or equipment, its energy system(s) and usage, and activity profile. Also include average price per unit of energy (electricity, natural gas, propane, fuel oil, renewable energy, etc.) paid by the customer for the most recent 12 months, or an average of 2, 3, 4, or 5 years,

for the building and equipment being audited. Any energy conversion should be based on use rather than source.

(2) *Potential Improvement Description.* Provide a narrative summary of the potential improvement and its ability to reduce energy consumption or improve energy efficiency, including a discussion of reliability and durability of the improvements.

(i) Provide preliminary specifications for critical components.

(ii) Provide preliminary drawings of project layout, including any related structural changes.

(iii) Identify significant changes in future related operations and maintenance costs.

(iv) Describe explicitly how outcomes will be measured.

(3) *Technical Analysis.* Give consideration to the interactions among the potential improvements and the current energy system(s).

(i) For the most recent 12 months, or an average of 2, 3, 4, or 5 years, prior to the date the application is submitted, provide both the total amount and the total cost of energy used for the original building and/or equipment, as applicable, for each improvement identified in the potential project. In addition, provide for each improvement identified in the potential project an estimate of the total amount of energy that would have been used and the total cost that would have been incurred if the proposed project were in operation for this same time period.

(ii) Calculate all direct and attendant indirect costs of each improvement;

(iii) Rank potential improvements measures by cost-effectiveness; and

(iv) Provide an estimate of simple payback, including all calculations, documentation, and any assumptions.

(4) *Qualifications of the auditor.* Provide the qualifications of the individual or entity which completed the energy audit.

Section C. Energy Assessment

If conducting an energy assessment, provide the following information.

(1) *Situation Report.* Provide a narrative description of the existing building and/or equipment, its energy system(s) and usage, and activity profile. Also include average price per unit of energy (electricity, natural gas, propane, fuel oil, renewable energy, etc.) paid by the customer for the most recent 12 months, or an average of 2, 3, 4, or 5 years, for the building and equipment being evaluated. Any energy conversion shall be based on use rather than source.

(2) *Potential Improvement Description.* Provide a narrative summary of the potential improvement and its ability to reduce energy consumption or improve energy efficiency.

(3) *Technical Analysis.* Giving consideration to the interactions among the potential improvements and the current energy system(s), provide the information specified in paragraphs (3)(i) through (iii) of this appendix.

(i) For the most recent 12 months, or an average of 2, 3, 4, or 5 years, prior to the date the application is submitted, provide both the total amount and the total cost of energy used for the original building and/or

equipment, as applicable, for each improvement identified in the potential project. In addition, provide for each improvement identified in the potential project an estimate of the total amount of energy that would have been used and the total cost that would have been incurred if the proposed project were in operation for this same time period.

(ii) Document baseline data compared to projected consumption, together with any explanatory notes on source of the projected consumption data. When appropriate, show before-and-after data in terms of consumption per unit of production, time, or area.

(iii) Provide an estimate of simple payback, including all calculations, documentation, and any assumptions.

(4) *Qualifications of the Assessor.* Provide the qualifications of the individual or entity that completed the assessment. If the energy assessment for a project with total project costs of \$80,000 or less is not conducted by energy auditor or energy assessor, then the individual or entity must have at least 3 years of experience and completed at least five energy assessments or energy audits on similar type projects.

Section D. Qualifications

Provide a resume or other evidence of the contractor or installer's qualifications and experience with the proposed EEI technology. Any contractor or installer with less than 2 years of experience may be required to provide additional information in order for the Agency to determine if they are qualified installer/contractor.

■ 45. Revise and republish appendix D to subpart D of part 5001 to read as follows:

Appendix D to Subpart D of Part 5001— Technical Reports for Renewable Energy System (RES) Projects With Total Project Costs of Less Than \$200,000 but More Than \$80,000

Provide the information specified in Sections A through D for each technical report prepared under this appendix.

A renewable energy site assessment may be used in lieu of Sections A through C if the renewable energy site assessment contains the information requested in Sections A through C. In such instances, the technical report would consist of Section D and the renewable energy site assessment.

Note: If the total project cost for the RES project is \$80,000 or less, this appendix does not apply. Instead, for such projects, please provide the information specified in § 5001.307(e).

Section A. Project Description

Provide a description of the project, including its intended purpose and a summary of how the project will be constructed and installed. Describe how the system meets the definition of commercially available. Identify the project's location and describe the project site.

Section B. Resource Assessment

Describe the quality and availability of the renewable resource to the project. Identify the amount of renewable energy generated that will be generated once the proposed project is operating at its steady state operating level. If applicable, also identify the percentage of energy being replaced by the system.

If the application is for a bioenergy project, provide documentation that demonstrates that any and all woody biomass feedstock from National Forest System land or public lands cannot be used as a higher value wood-based product.

Section C. Project Economic Assessment

Describe the projected financial performance of the proposed project. The description must address total project costs, energy savings, and revenues, including applicable investment and other production incentives accruing from government entities. Revenues to be considered shall accrue from the sale of energy, offset or savings in energy costs, byproducts, and green tags. Provide an estimate of simple payback, including all calculations, documentation, and any assumptions.

Section D. Project Construction and Equipment Information

Describe how the design, engineering, testing, and monitoring are sufficient to demonstrate that the proposed project will meet its intended purpose, ensure public safety, and comply with applicable laws, regulations, agreements, permits, codes, and standards. Describe how all equipment required for the RES is available and able to be procured and delivered within the proposed project development schedule. In addition, present information regarding component warranties and the availability of spare parts.

Section E. Qualifications of Key Service Providers

Describe the key service providers, including the number of similar systems installed and/or manufactured, professional credentials, licenses, and relevant experience. When specific numbers are not available for similar systems, estimations will be acceptable.

■ 46. Revise and republish appendix E to subpart D of part 5001 to read as follows:

Appendix E to Subpart D of Part 5001— Technical Reports for Renewable Energy System (RES) Projects With Total Project Costs of \$200,000 and Greater

Provide the information specified in Sections A through G for each technical report prepared under this appendix.

Provide the resource assessment under Section C that is applicable to the project. For hybrid projects, technical reports must be prepared for each technology that comprises the hybrid project.

Section A. Qualifications of the Project Team

Describe the project team, their professional credentials, and relevant experience. The description shall support that the project team key service providers have the necessary professional credentials, licenses, certifications, and relevant experience to develop the proposed project.

Section B. Agreements and Permits

Describe the necessary agreements and permits (including any for local zoning requirements) required for the project and the anticipated schedule for securing those agreements and permits. For example, interconnection agreements and power purchase agreements are necessary for all renewable energy projects electrically interconnected to the utility grid.

Section C. Resource Assessment

Describe the quality and availability of the renewable resource and the amount of renewable energy generated through the deployment of the proposed system. For all bioenergy projects, except anaerobic digesters projects, complete Section C.3 of this appendix. For anaerobic digester projects, complete Section C.6 of this appendix.

(1) *Wind.* Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the source of the wind data and the conditions of the wind monitoring when collected at the site or assumptions made when applying nearby wind data to the site.

(2) *Solar.* Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the source of the solar data and assumptions.

(3) *Bioenergy/Biomass Project.* Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the type, quantity, quality, and seasonality of the renewable biomass resource, including harvest and storage, where applicable. Where applicable, also indicate shipping or receiving method and required infrastructure for shipping. For proposed projects with an established resource, provide a summary of the resource. Document that any and all woody biomass feedstock from National Forest System land or public lands cannot be used as a higher value wood-based product.

(4) *Geothermal Electric Generation.* Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the quality of the geothermal resource, including temperature, flow, and sustainability and what conversion system is to be installed. Describe any special handling of cooled geothermal waters that may be necessary. Describe the process for determining the geothermal resource, including measurement setup for the collection of the geothermal resource data. For proposed projects with an established resource, provide a summary of the resource and the specifications of the measurement setup.

(5) *Geothermal Direct Generation.* Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the quality of the geothermal resource, including temperature,

flow, and sustainability and what direct use system is to be installed. Describe any special handling of cooled geothermal waters that may be necessary. Describe the process for determining the geothermal resource, including measurement setup for the collection of the geothermal resource data. For proposed projects with an established resource, provide a summary of the resource and the specifications of the measurement setup.

(6) *Anaerobic Digester Project/Biogas*. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the substrates used as digester inputs, including animal wastes or other renewable biomass in terms of type, quantity, seasonality, and frequency of collection. Describe any special handling of feedstock that may be necessary. Describe the process for determining the feedstock resource. Provide either tabular values or laboratory analysis of representative samples that include biodegradability studies to produce gas production estimates for the project on daily, monthly, and seasonal basis. If an anaerobic digester project, identify the type of operation (e.g., dairy, swine, layer, etc.), along with breed, herd population size and demographics, and the type of waste collection method and frequency information available. For the biogas produced, identify the type of digester (e.g., mixed, plug-flow, attached film, covered lagoon, etc.), if applicable, or the method of capture (landfill, sewage waste treatment, etc.) and treatment. Identify the system designer and determine the digester design assumptions such as the number and type of animals, the bedding type and estimated annual quantity used, the manure and wastewater volumes, and the treatment of digester effluent (e.g., none, solids separation by screening, etc. with details including use or method of disposal).

(7) *Hydrogen Project*. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the type, quantity, quality, and seasonality of the renewable biomass resource. For solar, wind, or geothermal sources of energy used to generate hydrogen, indicate the renewable resource where the hydrogen system is to be installed. Local resource maps may be used as an acceptable preliminary source of renewable resource data. For proposed projects with an established renewable resource, provide a summary of the resource.

(8) *Hydroelectric/Ocean Energy Projects*. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the quality of the resource, including temperature (if applicable), flow, and sustainability of the resource, including a summary of the resource evaluation process and the specifications of the measurement setup and the date and duration of the evaluation process and proximity to the proposed site. If less than 1 year of data is used, a qualified consultant must provide a detailed analysis of the correlation between the site data and a nearby, long-term measurement site.

(9) *Renewable Energy Systems with Storage Components*. Provide adequate and appropriate data to demonstrate the amount of renewable resource available. Indicate the

type, quantity, quality, and seasonality of the renewable energy resource, where applicable. Indicate the storage system specifications and the integrity of the system in conjunction with the RES it is integrated with, including application, size, lifetime, response time, capital and maintenance costs associated with the operation as well as the distribution of the stored resource(s).

Section D. Design and Engineering

Describe the intended purpose of the project and the design, engineering, testing, and monitoring needed for the proposed project. The description shall support that the system will be designed, engineered, tested, and monitored to meet its intended purpose, ensure public safety, and comply with applicable laws, regulations, agreements, permits, codes, and standards. In addition, identify that all major equipment is commercially available, including proprietary equipment, and justify how this unique equipment is needed to meet the requirements of the proposed design. In addition, information regarding component warranties and the availability of spare parts must be presented.

Section E. Project Development

Describe the overall project development method, including the key project development activities and the proposed schedule, including proposed dates for each activity. The description shall identify each significant historical and projected activity, its beginning and end, and its relationship to the time needed to initiate and carry the activity through to successful project completion. The description shall address applicant project development cash flow requirements. Details for equipment procurement and installation shall be addressed in Section F of this Appendix. Applications should include a concise development schedule with timelines for activities.

Section F. Equipment Procurement and Installation

Describe the availability of the equipment required by the system. The description shall support that the required equipment is available and can be procured and delivered within the proposed project development schedule.

Describe the plan for site development and system installation, including any special equipment requirements. In all cases, the system or improvement shall be installed in conformance with manufacturer's specifications and design requirements, and comply with applicable laws, regulations, agreements, permits, codes, and standards.

Section G. Operations and Maintenance

Describe the operations and maintenance requirements of the system, including major rebuilds and component replacements necessary for the system to operate as designed over its useful life. The warranty must cover and provide protection against both breakdown and a degradation of performance. The performance of the RES or EEI shall be monitored and recorded as appropriate to the specific technology.

■ 47. Amend § 5001.401 by revising the introductory text and paragraph (c) to read as follows:

§ 5001.401 Interest rate provisions.

Interest rates, interest rate caps, and incremental interest rate adjustment limitations on a guaranteed loan are negotiated between the lender and the borrower. The interest rate for a guaranteed loan can be either fixed or variable, or a combination thereof, as long as it is a legal rate. Interest rates cannot be more than those rates the lender customarily charges its borrowers for non-guaranteed loans in similar circumstances in the ordinary course of business. The Agency encourages each lender to use the secondary market and pass interest-rate savings on to the borrower. If an interest rate swap is utilized, the guarantee will only cover principal and interest. The lender must provide the Agency with the overall effective interest rate charged to the borrower in the swap transaction. The Agency guarantee does not cover any fees related to the swap.

* * * * *

(c) *Multi-rates*. When multi-rates are used, the lender must provide the Agency with the overall effective interest rate for the entire loan.

* * * * *

■ 48. Amend § 5001.402 by revising paragraph (b)(2) to read as follows:

§ 5001.402 Term length, loan schedule, and repayment.

* * * * *

(b) * * *

(2) Guaranteed loans must require a periodic payment schedule that will retire the debt over the term of the loan without a balloon payment. Balloon maturities are not allowed, unless required as a loan servicing action. Payments must be amortized to maximize successful loan repayment and may vary by type of business or cash flow.

* * * * *

■ 49. Amend § 5001.403 by revising paragraph (b) to read as follows:

§ 5001.403 Lender fees.

* * * * *

(b) Default charges, penalty interest, late payment fees, and additional interest expenses are not covered by the loan note guarantee and cannot be added to the principal or interest due under any loan note guarantee in the event of a loss claim as prescribed in § 5001.521 or a repurchase as prescribed in § 5001.511.

■ 50. Amend § 5001.406 by revising paragraphs (c) and (d) introductory text to read as follows:

§ 5001.406 Guaranteed loan amounts.

(c) *B&I projects.* The maximum total amount of B&I guaranteed loans (including the guaranteed and unguaranteed portions of any B&I guaranteed loans, the outstanding principal and interest balance of any existing B&I guaranteed loans, and any new B&I guaranteed loan that is the subject of an application) that may be made to a borrower is limited to a maximum amount of \$25 million. The Secretary, whose authority may not be redelegated, may approve, at the Secretary's discretion, guaranteed loans in excess of \$25 million and up to \$40 million for rural cooperatives that process value-added agricultural commodities in accordance with § 5001.105(b)(18)(i). In addition to the borrower loan limit, there is a guarantor loan limit of \$100 million.

(d) *REAP projects.* The amount of a guaranteed loan that will be made available to an eligible project and borrower under this part will be at least \$5,000, not to exceed 75 percent of eligible project costs. Borrowers must demonstrate evidence of a financial contribution in the project of not less than 25 percent of total eligible project costs.

* * * * *

■ 51. Amend § 5001.408 by revising paragraphs (a)(5) and (e)(1) to read as follows:

§ 5001.408 Participation or assignment of guaranteed loans.

* * * * *

(a) * * *

(5) *Secondary market.* The lender must properly close their loan and fully disburse loan funds of a promissory note for the purposes intended prior to assignment of the guaranteed portion of the promissory note(s) on the secondary market. The lender can assign all or part of the guaranteed portion of the loan only if the loan is not in default. Default includes a borrower default in payments or a lender default by unpaid periodic guarantee retention fees. A lender using the multi-note system may sell the guarantee on the secondary market for a specific note once that note is fully disbursed, even if other guaranteed notes for the project have not been fully disbursed.

* * * * *

(e) * * *

(1) A guarantee and right to require purchase in accordance with § 5001.511 will be directly enforceable by a holder

notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the loan guarantee by the lender, except for fraud or misrepresentation of which the holder had actual knowledge at the time it became the holder or in which the holder participates or condones.

* * * * *

■ 52. Amend § 5001.450 by revising paragraphs (b)(1), (c)(1) introductory text, (c)(1)(iii) and (c)(2) to read as follows:

§ 5001.450 General.

* * * * *

(b) * * *

(1) The entire loan must be secured by the same collateral with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the guaranteed loan will neither be paid first nor given any preference or priority over the guaranteed portion. A parity or junior lien position in the guaranteed loan collateral may be considered on a case-by-case basis and must be approved by the Agency during the loan approval process. Requirements for guaranteed loans to purchase cooperative stock are found in § 5001.140.

* * * * *

(c) * * *

(1) If the lender owns all or a portion of the guaranteed portion of the guaranteed loan or makes a protective advance, the Agency, in its sole discretion, may cover interest on the guaranteed portion for the 90 days from the most recent delinquency effective date. Per paragraph (c)(2) of this section, if applicable, the lender should issue an interest termination letter to any holder(s) and provide the Agency with a copy. The Agency will entertain the payment of interest up to 180 days past the most recent delinquency effective date only if:

* * * * *

(iii) Concurrence for inclusion of the extended period of interest to the lender is received from the Agency. The lender must request an extension of accrued interest in writing and document their collection efforts and timeframe for full resolution, which must be within 180 days from the most recent delinquency. Approved collection efforts that will extend longer than 180 days from the most recent delinquency date will be limited to 90 days of accrued interest payment from the Agency.

(2) If the guaranteed loan has one or more holders, the lender will issue an interest termination letter to each holder establishing the termination date for interest accrual and provide the Agency

with a copy. The loan note guarantee will not cover interest to any holder accruing after 90 days from the date of the interest termination letter. The Agency at its sole discretion may notify each holder of the interest termination provisions if it is determined that lender correspondence to holders is inadequate.

■ 53. Amend § 5001.452 by:

■ a. Revising paragraphs (a) and

(b)(8)(iii)(U);

■ b. Adding paragraphs (b)(8)(iii)(W) and (X); and

■ c. Revising paragraph (c).

The revisions and additions to read as follows:

§ 5001.452 Loan closing and conditions precedent to issuance of loan note guarantee.

(a) The lender must not close the guaranteed loan until all conditions of the conditional commitment are met. If, at a later date, it is discovered that all conditions were not met, the lender will be advised in writing that full enforceability of the guarantee by the lender may be compromised if the deficiencies are not corrected.

(b) * * *

(8) * * *

(iii) * * *

(U) For all RES and EEI projects, the lender must provide certification that the project has been performing or will perform at a steady state operating level in accordance with the technical requirements, plans, and specifications. Any modification to the 30-day steady state operating level requirement will be based on the Agency's review of the technical report or vendor certification and will be incorporated into the conditional commitment.

* * * * *

(W) For WWD projects, if applicable, the lender must certify that the project complied with American Iron and Steel requirements.

(X) For B&I, the capital/equity requirement set forth in the Conditional Commitment was met, as evidenced by a balance sheet as of the date the guaranteed loan was closed, giving effect to the entirety of the loan in the calculation whether or not the loan itself is fully advanced. A copy of the borrower's loan closing balance sheet must be included with the lender's certification.

(c) For RES projects where applicable, the lender must provide to the Agency a copy of the executed power purchase agreement and/or a permission to operate letter from the energy off-taker.

* * * * *

■ 54. Amend § 5001.454 by revising the introductory text, paragraphs (b)

introductory text, (d)(4) and (5) to read as follows:

§ 5001.454 Guarantee Fee.

The guarantee fee is a one-time, non-refundable fee paid by the lender to the Agency at or before loan closing and is required to be paid before the Agency will issue the loan note guarantee. The guarantee fee rate applied will be the rate as established in the **Federal Register** for the fiscal year in which a guaranteed loan is obligated. The lender may pass the guarantee fee on to the borrower.

* * * * *

(b) *Guarantee fee rates.* The guarantee fee rate is established by the Agency in an annual document published in the **Federal Register**. While the fee rate may vary annually, they will not exceed the limits in table 1. Once the guarantee is obligated, the guarantee fee rate in effect at the time of obligation will remain in place even if the guarantee fee rate changes before the loan note guarantee is issued.

* * * * *

(d) * * *

(4) Is part of a strategic economic development and community development plan on a multi-jurisdictional and multi-sectoral basis in accordance with Section 6401 of the Agriculture Improvement Act of 2018 (Pub. L. 115–334); or

(5) Provides an additional market for existing local businesses by purchasing substantial amounts of products or services from, selling product to, or providing services to existing local and regional businesses. The additional market for existing local businesses means that the borrower uses industry clusters in the same community as a substantial part of their product manufacturing or service delivery, or the borrower is part of a product chain where they are a substantial part of another local business' product manufacturing or service delivery. The use of local janitorial or maintenance firms, for example, does not meet this criteria.

■ 55. Amend § 5005.457 by revising paragraph (b)(1)(ii) to read as follows:

§ 5001.457 Changes prior to loan closing.

* * * * *

(b) * * *

(1) * * *

(ii) Borrower's written plan, scope of work, or the purpose or intent of the project.

* * * * *

■ 56. Amend § 5005.459 by revising paragraph (b)(1) to read as follows:

§ 5001.459 Replacement of loan note guarantee, and assignment guarantee agreement.

* * * * *

(b) * * *

(1) Be issued by a qualified surety company holding a certificate of authority from the Secretary of the Treasury and listed in Treasury Department Circular 570, except when the outstanding principal balance and accrued interest due the present holder, in accordance with § 5001.450(c), is less than \$1 million as verified by the lender via a written letter of certification of balance due;

* * * * *

■ 57. Amend § 5005.502 by revising paragraph (d) to read as follows:

§ 5001.502 Oversight and monitoring.

* * * * *

(d) *Access to the project.* Until the loan note guarantee is terminated, the borrower must allow the lender and therefore the Agency access to the project and its performance information and permit periodic inspections of the project by an authorized representative of the lender or the Agency.

■ 58. Amend § 5005.505 by revising paragraphs (a), (b)(3) introductory text, (b)(3)(iii) to read as follows:

§ 5001.505 Collateral inspection and release.

* * * * *

(a) *Inspection of collateral.* The lender must inspect the collateral as often as necessary to properly service the guaranteed loan.

(b) * * *

(3) *Sale or release transaction.* The sale or release of collateral must be based on an arm's length transaction, unless otherwise approved, in writing, by the Agency when the sale or release of collateral results in paying the guaranteed loan in full and termination of the loan note guarantee. There must be adequate consideration at market value for the release of collateral. Such consideration may include, but is not limited to:

* * * * *

(iii) Application of the net proceeds from the sale of collateral to the borrower's guaranteed loan or to its business operation in such a manner that a significant improvement to the borrower's debt service ability will be clearly demonstrated. The lender's written request must detail how the borrower's debt service ability will be improved; and

* * * * *

■ 59. Amend § 5001.506 by revising paragraphs (e) and (k) to read as follows:

§ 5001.506 Loan transfers and assumptions

* * * * *

(e) *Loan agreement.* A new loan agreement or an assumption agreement, acceptable to the Agency must be executed to establish the terms and conditions of the loan being assumed.

* * * * *

(k) *Appraisals.* If the proposed transfer and assumption is for less than the full amount of the guaranteed loan, an appraisal is required on all the collateral being transferred, and the amount of the assumption must not be less than this appraised value. The lender is responsible for obtaining the appraisal, which must conform to the requirements of § 5001.203 of this part. However, if the original appraisal is more than one year old, but less than two years old, the lender may provide an appraisal with a new effective date of evaluation in lieu of a completely new appraisal.

* * * * *

■ 60. Amend § 5001.507 by revising paragraphs (a)(3) and (d) to read as follows:

§ 5001.507 Lender transfer.

* * * * *

(a) * * *

(3) Agrees in writing to acquire title to the unguaranteed portion of the loan held by the original lender and assumes all original loan requirements, including liabilities and servicing responsibilities; and

* * * * *

(d) In cases when there is a transfer to a new lender or when a lender has been merged with or acquired by another lender, the Agency and the new lender must execute a new lender's agreement, unless the new lender already has a valid lender's agreement with the Agency.

* * * * *

■ 61. Amend § 5001.510 by revising paragraph (b)(3) to read as follows:

§ 5001.510 Subordination of lien position.

* * * * *

(b) * * *

(3) Remaining collateral is sufficient to provide for adequate collateral coverage of the guaranteed loan after taking into account the lender's discount of collateral consistent with the lender's sound loan-to-discounted value practices and satisfactory justification of the discount used. The Agency may require a current independent appraisal in accordance with § 5001.203. However, if the original appraisal is more than one year old, but less than two years old, the

lender may provide an appraisal with a new effective date of evaluation in lieu of a completely new appraisal;

* * * * *

■ 62. Amend § 5001.511 by revising paragraphs (b) introductory text, (c)(9) and (10) to read as follows:

§ 5001.511 Repurchase from holders.

* * * * *

(b) *Repurchase by lender for loan servicing purposes.* If the lender, borrower, and holder are unable to agree to restructuring of loan repayment, interest rate, or loan terms to resolve any loan problem or resolve any default and repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the holder must reassign the guaranteed portion of the loan to the lender. The reassignment must be for an amount not less than the holder's unpaid principal and accrued interest, in accordance with § 5001.450(c) of this part, on such portion less the lender's servicing fee.

* * * * *

(c) * * *

(9) *Accelerated loan.* When the lender has accelerated the loan and the lender holds all or a portion of the guaranteed loan, an estimated loss claim must be filed by the lender with the Agency within 60 calendar days from the date the loan was accelerated. Accrued interest paid to the lender in accordance with § 5001.450(c)(1).

(10) *Interest termination during bankruptcy.* When a borrower files a Chapter 7 liquidation plan, the lender shall immediately notify the Agency and submit a liquidation plan. The Agency will establish an interest termination date based on the date interest was last paid to the lender. When a borrower files either a Chapter 9 or Chapter 11 bankruptcy restructuring plan, the Agency and lender shall meet to discuss the bankruptcy procedure, the ability of the borrower to meet their restructuring plan, the lender's treatment of accruing interest, and potentially establish an interest termination date for the guaranteed loan. If the restructuring bankruptcy Chapter 9 or Chapter 11 is converted to a liquidation bankruptcy Chapter 7 by court order, the interest termination date will be the date of such conversion.

■ 63. Amend § 5001.516 by revising paragraphs (c) and (d) to read as follows:

§ 5001.516 Protective advances.

* * * * *

(c) A lender must obtain written Agency approval for any protective advance that will cumulatively amount

to more than \$200,000, or 10 percent of the aggregate outstanding balance of principal and interest, whichever is less, to the same borrower. Payment of real estate taxes by the lender is not considered a protective advance and does not require Agency approval.

(d) Protective advances constitute an indebtedness of the borrower to the lender and must be secured by collateral to the same extent as the original guaranteed loan. It is the lender's responsibility to ensure that any protective advances are secured by the collateral of the guaranteed loan.

* * * * *

■ 64. Amend § 5001.517 by revising paragraphs (c)(1), (c)(2), (c)(6)(i), (c)(10), (c)(11), (d), (e)(1)(i), and (f)(2) to read as follows:

§ 5001.517 Liquidation.

* * * * *

(c) * * *

(1) Such proof as the Agency requires to establish the lender's ownership of the guaranteed loan promissory note and related security instruments. Such proof may include copies of executed notes; and copies of mortgages or deeds of trust recorded in the appropriate jurisdiction;

(2) A copy of the payment ledger, if available, or other documentation that reflects the current outstanding loan balance, accrued interest to date, and the method of computing the accrued interest. If the interest rate was a variable rate, the lender must include documentation of changes in the agreed upon base rate and when the changes in the loan rate became effective.

* * * * *

(6) * * *

(i) These values or estimates of the collateral must be obtained by the lender through an independent appraisal. If the outstanding balance of principal and interest is less than \$250,000, the lender may, instead of an appraisal, obtain these values or estimates by using their primary regulator's policies relating to appraisals and evaluations or, if the lender is not regulated, normal banking practices and generally accepted methods of determining value. A copy of the appraisal or valuation will be provided to the Agency with the liquidation plan or as soon as it is available.

* * * * *

(10) An itemized list of estimated liquidation expenses expected to be incurred along with justification for each expense. These may include attorney, auctioneer, and other professional fees for services the lender will need to contract to maximize

recovery on the loan. Cost could also include legal representation to protect Agency/lender joint interest in bankruptcy or receivership;

(11) Estimated protective advance amounts with justification. Protective advances include, but are not limited to, advances made for taxes, annual assessments, ground rent, hazard and flood insurance premiums affecting the collateral, and other expenses necessary to protect the collateral. Protective advances may include advances necessary to maintain services or address unique situations with proper justification. If the lender has advanced funds without agency approval during the life of the loan, such expenditures or loans will not be guaranteed;

* * * * *

(d) *Partial liquidation plan.* If actions are necessary to immediately preserve and protect the collateral, the lender may submit a partial liquidation plan and, when approved by the Agency, submit a complete liquidation plan prepared by the lender in accordance with *paragraph (c)* of this section.

(e) * * *

(1) * * *

(i) Proceed expeditiously with liquidation. The lender must actively market the collateral for a reasonable period of time. If after this period of time the lender is unable to sell the collateral, then consideration should be given to submission of a final loss claim based on the fair market value of the collateral prior to its ultimate disposition;

* * * * *

(f) * * *

(2) The lender must provide the Agency a copy of the acceleration notice, or other acceleration document sent to the borrower.

* * * * *

■ 65. Amend § 5001.519 by revising paragraph (d)(2)(i) to read as follows:

§ 5001.519 Bankruptcy.

* * * * *

(d) * * *

(2) * * *

(i) The lender must request a bankruptcy loss payment of the guaranteed portion of the accrued interest and principal discharged by the court for all bankruptcies when all or a portion of the debt has been discharged. Unless a final court decree approves a subsequent change to the bankruptcy plan that is adverse to the lender, only one bankruptcy loss payment is allowed during the bankruptcy. Once a final court decree has discharged all or part of the guaranteed loan and any appeal period has run, the lender must submit

the documentation necessary for the Agency to review and adjust the bankruptcy loss claim to reflect any actual discharge of principal and interest.

* * * * *

■ 66. Amend § 5001.521 by revising paragraphs (d)(2), (e)(3), (e)(4), and (e)(8)(iii) to read as follows:

§ 5001.521 Loss calculations and payment.

* * * * *

(d) * * *

(2) Non-compliance with the requirements of § 5001.205(a) or § 5001.305(a) will result in a reduction of loss claims payable. The Agency's review of the non-compliance could result in a total reduction of the loss claim payable. The Agency's review of the non-compliance could result in a total reduction of the loss claim payable. The lender must ensure during loan making and project development that the project is designed utilizing accepted architectural and engineering practices and conforms to applicable Federal requirements including the seismic requirements of Executive Order

12699 (55 FR 835, January 5, 1990), State and local codes and requirements, and facility plans or plans and specifications reviewed and approved by the applicable State regulatory agency. The lender must also ensure that the planned project will be completed within the available funds and once completed, will be suitable for the borrower's needs.

* * * * *

(e) * * *

(3) *Audit.* Upon receipt of the final accounting and report of loss, the Agency may audit all applicable documentation to determine the final loss. The lender must make its records available to and otherwise assist the Agency in making any investigation or audit of the report of loss. The documentation accompanying the report of loss must support the amounts reported. The Agency must be satisfied that the lender has maximized the collections in conducting the liquidation.

(4) *Guarantees.* The lender must determine the collectability of unsecured personal and corporate

guarantees required in accordance with § 5001.204 of this part. The lender must promptly collect or otherwise dispose of such guarantees prior to completion of the final loss report. However, if collection from the guarantors appears unlikely or will require a prolonged period of time, the lender must file the report of loss when all other collateral has been liquidated. Unsecured personal or corporate guarantees outstanding at the time of the submission of the final report of loss will be treated as a future recovery with the net proceeds to be shared on a pro rata basis by the lender and the Agency.

* * * * *

(8) * * *

(iii) If a restructuring of a guaranteed loan includes the capitalization of interest, the guarantee will not cover the interest accrued on the capitalized interest.

* * * * *

Basil I. Gooden,

Under Secretary, Rural Development.

[FR Doc. 2024–21920 Filed 9–27–24; 8:45 am]

BILLING CODE 3410–15–P

Reader Aids

Federal Register

Vol. 89, No. 189

Monday, September 30, 2024

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	202-741-6000
Laws	741-6000
Presidential Documents	
Executive orders and proclamations	741-6000
The United States Government Manual	741-6000
Other Services	
Electronic and on-line services (voice)	741-6020
Privacy Act Compilation	741-6050

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: www.govinfo.gov.

Federal Register information and research tools, including Public Inspection List and electronic text are located at: www.federalregister.gov.

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to <https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new>, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to <http://listserv.gsa.gov/archives/publaws-l.html> and select *Join or leave the list (or change settings)*; then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: fedreg.info@nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

71153-71794.....	3
71795-72278.....	4
72279-72714.....	5
72715-72956.....	6
72957-73248.....	9
73249-73554.....	10
73555-74104.....	11
74105-74828.....	12
74829-75444.....	13
75445-75944.....	16
75945-76388.....	17
76389-76708.....	18
76709-77010.....	19
77011-77444.....	20
77445-77752.....	23
77753-78198.....	24
78199-78782.....	25
78783-79124.....	26
79125-79368.....	27
79369-79730.....	30

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR	2024.....76397
1800.....	75947
5900.....	75445
3 CFR	
Proclamations:	
10795.....	72279
10796.....	72283
10797.....	72285
10798.....	72287
10799.....	72289
10800.....	72291
10801.....	72293
10802.....	72295
10803.....	73249
10804.....	73555
10805.....	73557
10806.....	74105
10807.....	74829
10808.....	75945
10809.....	76389
10810.....	76391
10811.....	76393
10812.....	76709
10813.....	76711
10814.....	77765
10815.....	77767
10816.....	78199
Executive Orders:	
14126.....	73559
Administrative Orders:	
Memorandums:	
Memorandum of	
August 9, 2024.....	71795
Memorandum of	
August 16, 2024.....	71799
Memorandum of	
August 23, 2024.....	71801
Memorandum of	
September 6,	
2024.....	77753
Memorandum of	
September 13,	
2024.....	77755
Memorandum of	
September 13,	
2024.....	77757
Notices:	
Notice of September 6,	
2024.....	73251
Notice of September 9,	
2024.....	74101
Notice of September 9,	
2024.....	74103
Notice of September	
18, 2024.....	77011
Presidential	
Determinations:	
No. 2024-10 of August	
9, 2024.....	71797
No. 2024-11 of	
September 13,	
5 CFR	
1200.....	72957
1201.....	72957
1203.....	72957
1209.....	72957
2641.....	74107
6 CFR	
Proposed Rules:	
37.....	74137
7 CFR	
1205.....	75445
4284.....	75762
5001.....	79698
Proposed Rules:	
272.....	79174
274.....	79174
280.....	79174
915.....	77037
944.....	77037
945.....	79175
989.....	74851
3555.....	76745
8 CFR	
217.....	78783
9 CFR	
317.....	73253
381.....	73253
412.....	73253
10 CFR	
50.....	77769
70.....	79369
72.....	72299, 72304, 79125
73.....	73257
430.....	79370
431.....	79374
1703.....	73258
Proposed Rules:	
50.....	76750
72.....	72342, 72344
1008.....	73312, 77040
11 CFR	
110.....	78785
113.....	78201
Proposed Rules:	
104.....	72346
112.....	78826
12 CFR	
5.....	78207
201.....	78221
204.....	78222

303.....	79125
701.....	79380
741.....	79380
745.....	79397
746.....	79380
748.....	79380
752.....	79380
1002.....	76713
Proposed Rules:	
613.....	72759
1005.....	79456

13 CFR	
121.....	74109
Proposed Rules:	
126.....	72763, 76751

14 CFR	
39.....	72309, 72312, 72966, 72968, 72971, 72974, 72976, 73260, 73262, 73264, 73267, 73269, 75460, 75462, 75464, 75470, 75472, 75949, 76399, 76401, 76403, 76406, 76408, 76411, 76413, 77013, 77445, 77769, 77772, 78223, 78226, 78229, 78231, 78826, 78827, 79416, 79418, 79420, 79424, 79425
61.....	73271
71.....	72981, 73272, 73273, 74131, 76713, 77015, 79429
97.....	75475
401.....	76714
413.....	76714
415.....	76714
431.....	76714
435.....	76714
437.....	76714
440.....	76714
450.....	76714
460.....	76714
Proposed Rules:	
25.....	73604
39.....	73003, 73009, 73014, 73316, 73608, 75507, 75977, 76752, 77045, 77049, 77457, 78260, 78262, 78785, 78791, 79474, 79477, 79480, 79483, 79485
71.....	71189, 71191, 71863, 72765, 73020, 73022, 75510, 77053, 77055, 78831, 78832, 78834

15 CFR	
734.....	71803
736.....	72926
738.....	72926
740.....	71803, 72926
742.....	72926
743.....	72926
744.....	71803, 75476
746.....	71803
764.....	75477
766.....	75477
772.....	72926
774.....	71803, 72926
Proposed Rules:	
702.....	73612
730.....	78835
732.....	78835
734.....	78835
736.....	78835, 78836
740.....	78835
744.....	78835, 78836

774.....	78836
791.....	79088
908.....	77057

16 CFR	
Proposed Rules:	
1112.....	73024
1226.....	73320
1250.....	73024, 79488

17 CFR	
1.....	71803, 78793
3.....	71803, 78793
4.....	78793
5.....	71803
9.....	71803
10.....	71803
11.....	71803
12.....	71803
13.....	71803
14.....	71803
15.....	71803
16.....	71803
17.....	71803
18.....	71803
20.....	71803
23.....	71803
30.....	71803, 78793
31.....	71803
37.....	71803
41.....	71803
43.....	71803, 78793
45.....	71803
46.....	71803
49.....	71803
75.....	78793
140.....	71803
142.....	71803
144.....	71803
145.....	71803
146.....	71803
147.....	71803
148.....	71803
149.....	71803
150.....	71803
155.....	71803
160.....	71803
162.....	71803
165.....	71803
170.....	71803
171.....	71803
270.....	73764
274.....	73764

18 CFR	
801.....	78233
Proposed Rules:	
35.....	74161
40.....	79178

19 CFR	
12.....	73274, 73280

20 CFR	
220.....	78235

21 CFR	
16.....	77019
112.....	77775
573.....	72315
862.....	72982, 75489
864.....	72315
866.....	73565, 75491, 75953, 77448
870.....	72317
872.....	71153, 72320

876.....	72715, 72984, 75493
882.....	71155
886.....	72322
888.....	71157
890.....	71159
1141.....	74831
Proposed Rules:	
16.....	77058
26.....	77062
74.....	77467
173.....	78836
866.....	78265
1308.....	75979

22 CFR	
171.....	79434
126.....	79140
Proposed Rules:	
120.....	78278
121.....	78278

24 CFR	
214.....	75497
570.....	78239
3280.....	75704
3282.....	75704
3285.....	75704
3286.....	75704
Proposed Rules:	
5.....	72766

26 CFR	
1.....	73568, 75984
54.....	77586
301.....	75984
Proposed Rules:	
1.....	71193, 71214, 71864, 75061, 75990, 76356, 76759, 77467
301.....	71214, 72348

27 CFR	
Proposed Rules:	
4.....	73050
5.....	73050
19.....	73050
24.....	73050
26.....	73050
27.....	73050

29 CFR	
2590.....	77586
4044.....	76730

30 CFR	
550.....	71160
935.....	79436

31 CFR	
100.....	78241
501.....	74832
510.....	75955
525.....	75955
526.....	75955
536.....	75955
542.....	75955
544.....	75955
546.....	75955
547.....	75955
548.....	72717, 75955
549.....	75955
550.....	75955
551.....	75955
552.....	75955
553.....	75955

555.....	75955
558.....	75955
560.....	75955
562.....	75955
569.....	75955
570.....	75955
576.....	75955
578.....	75955
579.....	75955
582.....	75955
583.....	75955, 78815
584.....	75955
585.....	75955
587.....	72717, 72718, 72719, 75955, 78245, 78247
588.....	75955
589.....	75955
590.....	75955
591.....	72986, 75955
594.....	75955
598.....	75955
599.....	75955
1010.....	72156
1032.....	72156

Proposed Rules:	
1.....	76783
1010.....	79184

32 CFR	
Proposed Rules:	
3.....	71865, 77065

33 CFR	
100.....	71821, 71823, 71824, 72323, 72327, 72721, 75968, 76416, 78815
117.....	71184, 78818
149.....	76676
165.....	71824, 72329, 72987, 72989, 73289, 73291, 74132, 74135, 75502, 75971, 76417, 76419, 76731, 77451, 77453, 77776, 77778, 77780, 77782, 78249, 78819, 78821, 79142, 79144

Proposed Rules:	
100.....	72348
165.....	73054, 73055

34 CFR	
Ch. VI.....	76734
75.....	79146
76.....	79146
79.....	79146

36 CFR	
214.....	72990
251.....	72990

Proposed Rules:	
7.....	75511
1191.....	71215

37 CFR	
42.....	76421

38 CFR	
Proposed Rules:	
4.....	74162
21.....	72351

39 CFR	
3.....	78251
111.....	75973, 79441
Proposed Rules:	
3030.....	79489

40 CFR	93.....76280	118.....76676	215.....78997
52.....71185, 71826, 71830, 72721, 73568, 74834, 74836, 74847, 75502, 75973, 76735, 76737, 76740, 77023, 78255, 79147, 79443	422.....79450	132.....76676	217.....79001
60.....74135	423.....72998, 79450	147.....76676	225.....78997
63.....73293	425.....79152	159.....76676	242.....78992
81.....71830	433.....79020	160.....76676	247.....78990, 78992
84.....73588	438.....79020	161.....76676	252.....78990, 78992, 78997
98.....71838	447.....79020	162.....76676	552.....79172
180.....72994	460.....79450	163.....76676	Proposed Rules:
271.....73592, 79446	1007.....76431	164.....76676	209.....79013
300.....72331	Proposed Rules:	167.....76676	212.....79005, 79013
705.....72336	121.....74174	169.....76676	214.....79005
711.....79150	43 CFR	181.....76676	215.....79005
1068.....77025	8360.....72999	195.....76676	235.....79003
Proposed Rules:	44 CFR	199.....76676	237.....79013
52.....71230, 71237, 71872, 72353, 72770, 74165, 74171, 75517, 75524, 76013, 76442, 77467, 77786, 78837, 79186, 79189, 79195	Proposed Rules:	401.....76312	252.....79003, 79005, 79013
55.....73617	206.....77786	402.....76312	49 CFR
63.....72355	45 CFR	Proposed Rules:	571.....76236
84.....75898	146.....77586	401.....71877	1002.....76434
180.....72775	147.....77586	541.....77787	Proposed Rules:
271.....79491	170.....72998	47 CFR	571.....76922
300.....72356	46 CFR	1.....78452	595.....76035
705.....72362	2.....76676	9.....78066, 78823	50 CFR
721.....79203	10.....76312	11.....72724	17.....72739, 73308, 75976
41 CFR	31.....76676	14.....77244	217.....77972
300–3.....77025	32.....76676	54.....77028, 77784	300.....73602
301–11.....77025	34.....76676	63.....73601	622.....71860, 76438, 79172
301–50.....77025	35.....76676	64.....71848, 77244	635.....75504, 77029
301–52.....77025	39.....76676	73.....72738, 75975	648.....72758, 77455, 78258
301–70.....77025	56.....76676	Proposed Rules:	660.....77033
301–71.....77025	76.....76676	Ch. 1.....76020	648.....79173, 79452
301–73.....77025	77.....76676	1.....74184, 77470	679.....71861, 72340, 73002, 75505, 76743, 76744, 77035, 77456, 78825, 79454
42 CFR	95.....76676	54.....76016, 78840, 79492	Proposed Rules:
88.....73592	96.....76676	64.....73321, 74184, 77065, 77470	17.....72362, 73330, 73512, 76196, 77972, 78134
	105.....76676	90.....72780	229.....77789
	107.....76676	96.....72780	600.....79492
	108.....76676	48 CFR	622.....72794, 79220, 79492
	109.....76676	201.....79002	635.....72796
	115.....76676	204.....78990, 79001, 79002	
	116.....76676	206.....79000	
		212.....78990, 78997	

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at <https://www.archives.gov/federal-register/laws/current.html>.

The text of laws is not published in the **Federal Register** but may be ordered in “slip law” (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402

(phone, 202–512–1808). The text is available at <https://www.govinfo.gov/app/collection/plaw>. Some laws may not yet be available.

H.R. 9747/P.L. 118–83

Continuing Appropriations and Extensions Act, 2025 (Sept. 26, 2024; 138 Stat. 1524)

S. 265/P.L. 118–84

Supporting and Improving Rural EMS Needs Reauthorization Act (Sept. 26, 2024; 138 Stat. 1544)

S. 1648/P.L. 118–85

Launch Communications Act (Sept. 26, 2024; 138 Stat. 1546)

S. 4351/P.L. 118–86

Poison Control Centers Reauthorization Act of 2024 (Sept. 26, 2024; 138 Stat. 1549)

S. 2825/P.L. 118–87

Dustoff Crews of the Vietnam War Congressional Gold Medal Act (Sept. 26, 2024; 138 Stat. 1550)

S. 2861/P.L. 118–88

Billie Jean King Congressional Gold Medal Act (Sept. 26, 2024; 138 Stat. 1554)

Last List September 24, 2024

Public Laws Electronic Notification Service (PENS)

PENS is a free email notification service of newly enacted public laws. To subscribe, go to https://portalguard.gsa.gov/__layouts/pg/register.aspx.

Note: This service is strictly for email notification of new laws. The text of laws is not available through this service. PENS cannot respond to specific inquiries sent to this address.