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Rules and Regulations

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Tuesday, October 1, 2024

OFFICE OF MANAGEMENT AND BUDGET

2 CFR Parts 170, 184, and 200

Guidance for Federal Financial Assistance; Corrections

AGENCY: Office of Federal Financial Management, Office of Management and Budget.

ACTION: Final rule; correction and correcting amendments.

SUMMARY: The Office of Management and Budget (OMB) is correcting the final guidance that appeared in the **Federal Register** on April 22, 2024. This document reverses a change to a title heading and makes technical amendments clarifying specific language in three parts.

DATES: Effective on October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Steven Mackey or Andrew Reisig at the OMB Office of Federal Financial Management at *MBX.OMB.Grants@OMB.eop.gov* or 202–395–3993.

SUPPLEMENTARY INFORMATION: This is a summary of the revisions to OMB's Guidance for Federal financial assistance published April 22, 2024 (89 FR 30046).

Section-by-Section Discussion

Title 2—Grants and Agreements

In the document published by OMB in the **Federal Register** in April, instruction 1 at 89 FR 30107 attempted to change the heading of title 2 from ''Grants and Agreements'' to ''Federal Financial Assistance.'' However, unlike chapters, subchapters, and parts, which are under the direct control of an agency (1 CFR 21.8), each CFR title is arranged by subject matter and only the Director of the Federal Register can establish new or update existing titles (1 CFR 8.2). Therefore, instead of directly changing the heading and subject matter of title 2, the Director of OMB has communicated the request to change the heading of title 2 to the Director of the Federal Register.

Subtitle A of title 2 has been specifically assigned to OMB, so, in this case, the subtitle heading is treated as an OMB chapter or part heading. Therefore, instructions 2 and 4 in OMB's April document are both acceptable instructions, which will be implemented.

Appendix A to Part 170—Award Term

In paragraph I(a)(2)(i) of appendix A to 2 CFR part 170, OMB mistakenly stated that the ''entity or Federal agency'' must report subawards described in paragraph (a)(1) of the award term to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS). OMB intended to state that the ''recipient'' is responsible for such reporting to FSRS. The technical correction is consistent with the prior version of the award term in appendix A to 2 CFR part 170, which is directed at recipients—but refers to them throughout as ''you.'' In the revised version of the award term, OMB generally replaced the word ''you'' with ''recipient'' throughout for greater clarity, but inadvertently included the wrong terms in this particular instance. Consistent with 2 CFR 170.220(a), the award term is directed at recipients, and recipients are responsible for reporting subawards in FSRS. Thus, through this document, OMB replaced ''entity or Federal agency'' with ''recipient'' in paragraph (a)(1) of the award term.

Section 184.3—Definitions (Introductory Text)

In the introductory text for the definitions in part 184, which implements the Build America, Buy America Act (BABA), Public Law 117–58, OMB incorporated the meanings of acronyms and definitions from 2 CFR 200.0 and 200.1. 88 FR 57750, 57788. OMB did this to incorporate the meanings of terms such as ''Federal award,'' ''subaward,'' ''Federal agencies,'' ''recipient,'' and others, which are used in the same way in both parts 184 and 200. However, the document published by OMB in the **Federal Register** in April 2024 revising part 200 adjusted the meanings and thresholds for the terms ''equipment'' and ''supply,'' which OMB does not intend to apply under part 184. 89 FR 30046, 30139–44. OMB has amended the introductory text before the definitions in § 184.3 to clarify that the definitions of ''equipment'' and ''supply'' are not incorporated under part 184.

Based on the use of ''expenditures'' at § 184.8 (Exemptions to the Buy America Preference), OMB has also amended the introductory text to exclude the definition of ''expenditures'' from part 200. The use of that term in § 184.8 (*i.e.,* ''expenditures for assistance'') refers to expenditures of funds by a Federal agency ''for assistance,'' as opposed to the definition in § 200.1, which refers to expenditures ''by a recipient or subrecipient to a project or program for which a Federal award is received.'' 89 FR 30046, 30139.

OMB is not providing revised definitions of the terms ''equipment,'' ''supply,'' or ''expenditure'' through this document, but merely clarifying that the definitions from § 200.1 do not apply under part 184.

Section 200.1—Definitions

In the document published by OMB in the **Federal Register** in August 2023 establishing 2 CFR part 184, which implements BABA, Public Law 117–58, OMB explained how the term Federal financial assistance, as defined at 2 CFR 200.1, should be applied under part 184. 88 FR 57750, 57774. The preamble explained that, through issuance of the final guidance, OMB did not modify the existing guidance in M–22–11 on the proper application of that term for the purposes of BABA. Specifically, OMB explained that the existing guidance in OMB Memorandum M–22–11 was based on the definition of Federal financial assistance at section 70912(4)(A) of BABA, providing that the term has the meaning given in ''section 200.1 of title 2, Code of Federal Regulations (or successor regulations).'' Based on certain forms of assistance listed in section 200.1, Memorandum M–22–11 established the policy that, for the purposes of BABA, Federal financial assistance means ''assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, *loans, loan guarantees,* and other types of financial assistance.'' (Emphasis added) Section 70912(4)(B) of BABA also provides that the term Federal financial assistance includes, but is not

limited to, all expenditures ''by a Federal agency to a non-Federal entity [for assistance] for an infrastructure project,'' except that it does not include certain specified expenditures relating to a major disaster or emergency. Based on the policy in Memorandum M–22–11, which applied BABA to loans and loan guarantees, the part 184 preamble explained how the definition from BABA 70912(4)(A) and 2 CFR 200.1 should be applied for the purposes of part 184. 88 FR 57750, 57774.

OMB subsequently rescinded and replaced Memorandum M–22–11 on October 25, 2023, by issuing Memorandum M–24–02. Memorandum M–24–02 continues to provide that, for the purposes of BABA, Federal financial assistance means ''assistance that non-Federal entities receive or administer in the form of grants, cooperative agreements, non-cash contributions or donations of property, direct assistance, loans, loan guarantees, and other types of financial assistance.''

To clarify how the term ''Federal financial assistance'' is applied for purposes of BABA under part 184, OMB has added a new paragraph to the definition at § 200.1 specifically addressing this topic based on the part 184 preamble and associated OMB guidance memoranda. This revision is intended to reduce any ambiguity in the 2 CFR text on which forms of Federal financial assistance are included for purposes of part 184. The revision is consistent with OMB's existing policy with respect to BABA applicability to loans and loan guarantees, which is reflected in the part 184 preamble and associated policy memoranda.

Section 200.431—Compensation—Fringe Benefits

In the document published by OMB in the **Federal Register** in April, OMB explained in the preamble at 89 FR 30095 that, in the proposed guidance, ''OMB proposed revising section 200.431 on fringe benefits to require recipients and subrecipients to allocate payments for unused leave as general administrative expenses or include them in a fringe benefit rate with cognizant agency approval.'' In its response to comments at 89 FR 30095, OMB stated that it revised paragraph (b)(3)(i) of § 200.431 ''to remove the requirement that agencies must include certain costs in fringe benefit rates *only with* the approval of the cognizant agency for indirect costs.'' (Emphasis added) OMB explained that it made this change in recognition ''that some recipients might not have a cognizant agency for indirect costs.'' However, in removing the requirement to obtain cognizant agency approval, OMB also inadvertently removed the option to include these payments in a fringe benefit rate under any circumstances, which—as the preamble text reflected—was not its intent. Thus, through this document, OMB inserted the following text at the end of paragraph (b)(3)(i) of § 200.431: ''or included in the fringe benefit rate.''

In addition, OMB further revised paragraph (b)(3)(i) of § 200.431 through this document to replace the word ''must'' with ''should'' in the instruction to either allocate these payments for unused leave as a general administrative expense to all activities or include them in fringe benefit rates. This revision is consistent with prior OMB guidance on this topic in the ''2 CFR Frequently Asked Questions'' (2 CFR FAQ) published on May 3, 2021, which was a source of the text at paragraph (b)(3)(i) of § 200.431. *See* 2 CFR FAQ, at Q–104. All payments for unused leave must still be allocated in accordance with the cost principles in subpart E. *See, e.g.,* 2 CFR 200.401(a). Paragraph (b)(3)(i), as revised, continues to describe the two options that will generally be used for these types of payments under subpart E.

Correction to Final Rule Published April 2024

In FR Doc. 2024–07496, appearing at 89 FR 30046 in the **Federal Register** of April 22, 2024, on page 30108, in the first column, remove instruction 1 for title 2.

List of Subjects

2 CFR Part 170

Colleges and universities, Grant programs, Hospitals, International organizations, Loan programs, Reporting and recordkeeping requirements.

2 CFR Parts 184 and 200

Administration of Federal financial assistance, Administrative practice and procedure, Federal financial assistance programs.

For the reasons stated in the preamble, the Office of Management and Budget corrects 2 CFR chapters I and II by making the following correcting amendments:

PART 170—REPORTING SUBAWARD AND EXECUTIVE COMPENSATION INFORMATION

■ 1. The authority citation for part 170 continues to read as follows:

Authority: 31 U.S.C. 503; 31 U.S.C. 6102; 31 U.S.C. 6307; Pub. L. 109–282; Pub. L. 110–252, Pub. L. 113–101, Pub. L. 117–40.

Appendix A to part 170 [Amended]

■ 2. In appendix A to part 170, amend paragraph I(a)(2)(i) by removing the words ''entity or Federal agency'' and adding, in their place, the word ''recipient''.

PART 184—BUY AMERICA PREFERENCES FOR INFRASTRUCTURE PROJECTS

■ 3. The authority citation for part 184 continues to read as follows:

Authority: Pub. L. 117–58, 135 Stat. 429.

■ 4. In § 184.3, revise the introductory text to read as follows:

§ 184.3 Definitions.

Acronyms used in this part have the same meaning as provided in 2 CFR 200.0. Terms not defined in this part have the same meaning as provided in 2 CFR 200.1, except for the terms ''equipment,'' ''expenditures,'' and ''supplies,'' which are not specifically defined for this part. As used in this part:

* * * * *

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

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

Authority: 31 U.S.C. 503; 31 U.S.C. 6101–6106; 31 U.S.C. 6307; 31 U.S.C. 7501–7507.

■ 6. In § 200.1, in the definition of ''Federal financial assistance,'' add paragraph (5) to read as follows:

§ 200.1 Definitions.

* * * * *

Federal financial assistance * * *

(5) For part 184 of this title, in addition to the forms of assistance listed in paragraph (1) of this definition, *Federal financial assistance* also includes assistance that recipients or subrecipients receive or administer in the form of:

(i) Loans; and

(ii) Loan Guarantees.

* * * * *

■ 7. In § 200.431, revise paragraph (b)(3)(i) to read as follows:

§ 200.431 Compensation—fringe benefits.

* * * * *

(b) * * *

(3) * * *

(i) When a recipient or subrecipient uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an

employee retires or terminates employment are allowable in the year of payment and should be allocated as a general administrative expense to all activities or included in the fringe benefit rate.

* * * * *

Deidre A. Harrison,

Deputy Controller, performing the delegated duties of the Controller Office of Federal Financial Management.

[FR Doc. 2024–22520 Filed 9–26–24; 4:15 pm]

BILLING CODE 3110–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 305 and 319

[Docket No. APHIS–2024–0034]

Web Links for Plant Commodity Import Requirements

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are revising the phytosanitary treatment and quarantine import regulations to reflect our relocation of import and treatment requirements for agricultural commodities to the Agricultural Commodity Import Requirements online database. This change will ensure that the regulations provide the latest web links for accessing current import and treatment requirements for all agricultural commodities.

DATES: Effective October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Ms. Jenna Edwards, Assistant Director, Information Services and Manuals Unit, PPQ–PEIP–IRM, APHIS, 4700 River Road, Riverdale, MD 20737–1231; (970) 305–2501; *jennifer.m.edwards@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 305, ''Phytosanitary Treatments,'' set out phytosanitary treatment requirements for certain plants, fruits, vegetables, and other articles before they may be imported or moved interstate to prevent the spread of agricultural pests into or within the United States. In 7 CFR part 319, subpart H, §§ 319.37–1 through 319.37–23, sets out requirements for importation of live plants intended to be planted or replanted. Subpart L, §§ 319.56–1 through 319.56–12, provides requirements for importation of fruits and vegetables into the United States.

The Animal and Plant Health Inspection Service (APHIS) maintains a publicly searchable database, ''Agricultural Commodity Import Requirements,'' or ACIR,[1] that allows users to find import and treatment requirements for all agricultural commodities. APHIS intends ACIR eventually to be the official location for import and treatment requirements for all agricultural commodities.

Prior to development of the ACIR database, APHIS' Plant Protection and Quarantine (PPQ) import and treatment requirements were maintained across several manuals and the Fruits and Vegetables Import Requirements (FAVIR) database. In September 2022, FAVIR was retired and all information about specific fruit and vegetable import requirements were relocated to ACIR. PPQ import requirements for cut flowers and greenery, seeds not for planting, miscellaneous and processed products, and later in 2022, plants for planting, were also relocated from their respective manuals to ACIR. In early 2023, treatment schedules and other information from the *PPQ Treatment Manual* were relocated to ACIR.

Parts 305 and 319 of the current regulations contain web links to FAVIR, PPQ's *Plants for Planting Manual,* and the *PPQ Treatment Manual.* These links either redirect persons to the ACIR database or to manuals that are no longer to be updated, as the information in these sources has been moved to ACIR. In order to provide updated web links to direct readers to the ACIR database, it is necessary to amend the regulations through rulemaking.

In § 305.1, the definition of *PPQ Treatment Manual* contains a link that currently directs readers to the manual. We are removing that web link and replacing it with one that links directly to the treatments section within ACIR. We are also amending the definition by removing the current mailing address for requesting a hard copy of the *PPQ Treatment Manual* and adding an updated mailing address.[2] In accordance with our legal obligations, we maintain this service for persons who may not have access to the internet.

We are also amending § 319.5(c) by removing ''Commodity Import Analysis and Operations'' from the address to which information about export commodities is to be sent. This amendment reflects an internal administrative change.

In § 319.37–2, we are revising the definition of *Plants for Planting Manual* by replacing the web link currently in the definition with one that links directly to the plants for planting section of the ACIR database. We are also updating the mailing address in the definition for persons requesting a hard copy of the manual.

As noted above, the import requirements for fruits and vegetables have been moved from FAVIR to ACIR. Accordingly, we are updating § 319.56–4(c)(1) by replacing the current web link with a link directly to the ACIR database.

Effective Date

This rule updates APHIS' regulations in order to ensure that references to manuals, web addresses, postal addresses, and nomenclature are accurate. Therefore, APHIS considers there to be good cause pursuant to 5 U.S.C. 553 to find that an opportunity for public comment is unnecessary and contrary to the public interest, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule ensures that regulations will refer to the correct web addresses and postal addresses used by the Agency, APHIS considers the rule to relate to internal agency management within the U.S. Department of Agriculture, and it is, accordingly, exempt from the provisions of Executive Orders 12866 and 12988. Finally, this action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 501), and as such is exempt from the provisions of that Act.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Paperwork Reduction Act

This rule contains no reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Lists of Subjects

7 CFR Part 305

Agricultural commodities, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

7 CFR Part 319

Coffee, Cotton, Fruits, Honey, Imports, Nursery stock, Plant diseases and pests, Plants, Quarantine, Reporting

[1] *https://acir.aphis.usda.gov/s/.*

[2] Information Services and Manuals Unit, 4700 River Road, Riverdale, MD 20737.

and recordkeeping requirements, Rice, Sugar, Vegetables.

Accordingly, we are amending 7 CFR parts 305 and 319 as follows:

PART 305—PHYTOSANITARY TREATMENTS

■ 1. The authority citation for part 305 continues to read as follows:

Authority: 7 U.S.C. 7701–7772 and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. In § 305.1, revise the definition of ''PPQ Treatment Manual'' to read as follows:

§ 305.1 Definitions.

* * * * *

PPQ Treatment Manual. A document that contains treatment schedules that are approved by the Administrator for use under this part. The Treatment Manual is available on the internet at *https://acir.aphis.usda.gov/s/treatment-hub,* or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Information Services and Manuals Unit, 4700 River Road, Riverdale, MD 20737.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

■ 3. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.5 [Amended]

■ 4. In § 319.5(c), remove the text ''Commodity Import Analysis and Operations,''.

■ 5. In § 319.37–2, revise the definition of ''Plants for Planting Manual'' to read as follows:

§ 319.37–2 Definitions.

* * * * *

Plants for Planting Manual. The document that contains restrictions on the importation of specific types of plants for planting, as provided in § 319.37–20, and other information about the importation of plants for planting as provided in this subpart. The Plants for Planting Manual is available on the internet at *https://acir.aphis.usda.gov/s/plants-for-planting-hub,* or by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Information Services and Manuals Unit, 4700 River Road, Riverdale, MD 20737.

* * * * *

§ 319.56–4 [Amended]

■ 6. In § 319.56–4(c)(1), remove the web address ''*https://epermits.aphis.usda.gov/manual*'' and add the web address ''*https://acir.aphis.usda.gov/s/*'' in its place.

Done in Washington, DC, this 16th day of September 2024.

Michael Watson,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2024–21619 Filed 9–30–24; 8:45 am]

BILLING CODE 3410–34–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245–AI15

504 Debt Refinancing

AGENCY: U.S. Small Business Administration.

ACTION: Direct final rule.

SUMMARY: The U.S. Small Business Administration (SBA or Agency) is amending regulations governing SBA's 504 Loan Program for debt refinancing with expansion and debt refinancing without expansion with this direct final rule. The changes will streamline the loan application process, expand eligibility criteria for small businesses borrowers, and make minor corrections. The amendments include: removing the 50% cap on debt refinance without expansion to conform with current legislation; raising the loan to value requirement on debt refinancing without expansion projects that include other business expenses to 90% and eliminating the cap on Eligible Business Expenses; aligning the ''substantially all'' standard for 504 debt refinancing with expansion so it is consistent with the debt refinancing without expansion standard of 75%; eliminating the 10% substantial benefit test on 504 debt refinancing with expansion and 504 debt refinancing without expansion on refinancing other government debt; and allowing certain ''other secured debt'' to be included as an Eligible Business Expense.

DATES: The direct final rule is effective November 15, 2024. SBA must receive comments on this direct final rule on or before October 31, 2024. If adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by RIN 3245–AI15, through the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments.

SBA will post all comments on *https://www.regulations.gov.* If you wish to submit confidential business information (CBI) as defined in the User Notice at *https://www.regulations.gov,* please submit the information via email to *Gregorius.Suryadi@sba.gov.* Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Gregorius Suryadi, Senior Financial and Loan Specialist, 504 Program Branch, Office of Financial Assistance, Small Business Administration, 409 3rd Street SW, Washington, DC 20416; telephone: (202) 205–6806; email: *gregorius.suryadi@sba.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information

The 504 Loan Program is an SBA financing program authorized under title V of the Small Business Investment Act of 1958, 15 U.S.C. 695 *et seq.* The core mission of the 504 Loan Program is to provide long-term financing to small businesses for the purchase or improvement of land, buildings, and major equipment, in an effort to facilitate the creation or retention of jobs and local economic development. Under the 504 Loan Program, loans are made to small business applicants by Certified Development Companies (''CDCs''), which are certified and regulated by SBA to promote economic development within their community. In general, a project in the 504 Loan Program (a ''504 Project'') includes: A loan obtained from a private sector lender with a senior lien covering at least 50 percent of the project cost; a loan obtained from a CDC (a ''504 Loan'') with a junior lien covering up to 40 percent of the total cost (backed by a 100 percent SBA-guaranteed debenture); and a contribution from the Borrower of at least 10 percent equity.

In addition, the 504 Loan Program may be used to refinance debt under two options authorized under section 502(7)(B) and (C) of the Small Business Investment Act of 1958. First, if a 504 Project involves the expansion of the small business, any amount of existing indebtedness that does not exceed 100 percent of the project cost of the expansion may be refinanced and added to the project's cost (Debt Refinancing with Expansion) under the conditions set forth in section 502(7)(B) and the implementing regulations. *See* 13 CFR 120.882(e) and (f). Second, debt

refinancing is available for a 504 Project that does not involve the expansion of the small business under the requirements set forth in section 502(7)(C) and 13 CFR 120.882(g) (Debt Refinancing without Expansion).

On July 29, 2021, SBA published in the **Federal Register** an interim final rule implementing section 328(a) of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Economic Aid Act), enacted December 27, 2020, Public Law 116–260, which revised the conditions and requirements for refinancing 504 loan debt (''Debt Refinancing in the 504 Loan Program interim final rule'' or ''interim final rule''). 86 FR 40775 (July 29, 2021). SBA subsequently issued a final rule on October 12, 2023, finalizing the interim final rule and implementation of section 328 of the Economic Aid Act (''Debt Refinancing in the 504 Loan Program final rule'' or ''final rule''). 88 FR 70580 (October 12, 2023).

With the prior rulemaking the Agency included statutorily required mandatory changes to the 504 loan program, with one omission, as the statutory change limiting the loan dollar volume of 504 refinancing loans without expansion to 50% of the CDC's prior portfolio, as required by section 328(a)(2)(A) of the Economic Aid Act, was not included. In addition, during the prior rulemaking the National Associate of Development Companies (NADCO), a 504 Loan Program trade association, along with many of its member CDCs, requested additional changes to the 504 loan program. Since these changes went beyond those mandated by the Economic Aid Act, they were not implemented at the time since the Agency's objective was to implement the statutory changes directly and expeditiously without variation. Some of the changes recommended by the trade association required careful consideration by each impacted SBA office, had the potential for risk shifting in the 504 portfolio, had a potential impact on other SBA programs such as the 7(a) program, or had a potential for impact on the 504 subsidy rate and consequently were held for future rule making. The comments were nonetheless consistent with lender round table feedback from three major lender conferences.

Commenters, requested that SBA: increase eligibility for 504 debt refinance with expansion and 504 debt refinance without expansion; update the eligibility standards for more flexibility; remove requirements that are not required by statute and which create an additional barrier to debt restructuring and relief for 504 small business borrowers; raise the loan to value requirement on debt refinancing without expansion projects; align the ''substantially all'' standard for 504 debt refinancing with expansion with the 504 debt refinancing without expansion standard; and eliminate the 10% substantial benefit test on 504 debt refinancing with expansion and 504 debt refinancing without expansion on refinancing other government debt.

Congress' long-established policy is that SBA stimulate and supplement the flow of long-term loan funds which small business concerns need for the sound financing of their business operations and for their growth, expansion, and modernization, including with the refinancing of existing loan debt. 15 U.S.C. 661. Businesses are facing increasing operating costs due to inflation, global supply chain challenges, and increases in building costs and supplies which are above pre-pandemic levels. The impact of multiple Federal Reserve interest rate increases [1] from March 2022 to February 2024 has prompted a request for expedient SBA action on behalf of small business borrowers. The 504 loan program has a long-term fixed interest rate for 40% of the project to help small businesses refinance conventional loans or government based programs, which are generally based on a variable rate. This results in significant cost savings for the small business borrower and assists small businesses with managing costs by providing a predictable expense with a fixed interest rate.

Further, as the interim final rule was released July 29, 2021, and as the final rule was released October 12, 2023, SBA could not have anticipated the impact on policy of the Federal Reserve interest rate policy during the prior rulemaking. Since the publication of the Debt Refinancing in the 504 Loan Program final rule, SBA's Office of Financial Assistance (OFA) has received input on the impact of the rising interest rate environment on 504 debt refinancing. For example, SBA received feedback on the difficulty of SBA applicants in meeting the 10% substantial benefit test to borrowers, and CDCs have asked for a revision of this standard as it was not required in statute and was adopted through regulations.

[1] Since March 2022, the Federal Reserve has increased its benchmark short-term interest rate from near zero to a 23-year high of 5.25% to 5.5% to tame inflation. The Federal Reserve raised rates on March 17, 2022, by 25 basis points, on May 5, 2022, by 50 basis points, in July, July, September, and November each time by 75 basis point with each reset, then on December 14, 2022, by 50 basis points, in February, March, May and July 2023 by 25 basis points with each reset.

As described in the section-by-section analysis below, SBA is issuing this direct final rule to correct the omission described above and to implement changes to 504 debt refinancing in response to public comments provided during the prior rulemaking and industry input both before and following the prior rulemaking.

II. Justification for Direct Final Rule

In general, SBA publishes a rule for public comment before issuing a final rule, in accordance with the Administrative Procedure Act. 5 U.S.C. 553. The Administrative Procedure Act provides an exception to this standard rulemaking process, however, when an agency finds good cause to adopt a rule without prior public participation. 5 U.S.C. 553(b)(3)(B). The good cause requirement is satisfied when prior public participation is impracticable, unnecessary, or contrary to the public interest. SBA is publishing this rule as a direct final rule because public participation is unnecessary. SBA views this as a non-controversial administrative action because all technical corrections and updates are consistent with public comments received throughout the previous rulemaking process. This rule will be effective on the date shown in the **DATES** section unless SBA receives significant adverse comment on or before the deadline for comments. Significant adverse comments are comments that provide strong justifications why the rule should not be adopted or for changing the rule. SBA does not expect to receive any significant adverse comments because these technical corrections and updates are consistent with broad stakeholder comments received during the prior previous rulemaking process. Further, because some of the changes in this rule are prescribed by statute, SBA does not expect significant adverse comments.

If SBA receives significant adverse comment, SBA will publish a document in the **Federal Register** withdrawing this rule before the effective date. If SBA receives no significant adverse comments, the rule will be effective 45 days after publication without further notice.

III. Section-by-Section Analysis

A. Delete 13 CFR 120.882(g)(10) To Remove the 50% Cap for Debt Refinancing Without Expansion in Alignment With the Economic Aid Act

Subsequent to the publication of the Debt Refinancing in the 504 Loan Program final rule SBA identified a drafting omission that must be corrected

to ensure the corresponding regulation aligns with the Economic Aid Act. Section 328(a) of the Economic Aid Act had repealed section 521(a) of title V of division E of the Consolidated Appropriations Act of 2016. Section 521(a), in part, limited a CDC's financings so that in any fiscal year no more than 50 percent of the CDC's financings were for debt refinancing not involving expansion, a requirement implemented by SBA regulations at 13 CFR 120.882(g)(10). Consequently, the Debt Refinancing in the 504 Loan Program final rule should have deleted the regulation at 13 CFR 120.882(g)(10).

SBA has included in this direct final rule the correction and is removing 50% cap for debt refinancing without expansion to align with the Economic Aid Act, thereby removing the current inconsistency between Agency regulations and the statute. This change will provide certainty to CDCs that their debt refinancing loans are no longer capped at 50% of the total dollar amount of the CDC's 504 loans approved, thereby increasing debt refinancing opportunities for small business concerns.

B. Update 13 CFR 120.882(g)(6) To Increase the Percentage of Qualified Debt in Projects Including Eligible Business Expenses From 85% to 90% and Remove the 20% Cap on Eligible Businesses Expenses

Currently, if an application for a 504 debt refinancing without expansion project includes a request to finance Eligible Business Expenses (as described in 13 CFR 120.882(g)(6)(ii)), the portion of the refinancing project provided by the 504 loan and the third party loan may be no more than 85% of the fair market value of the fixed assets that will serve as collateral and the Borrower may receive no more than 20% of the fair market value of the eligible fixed assets securing the debt to be refinanced for Eligible Business Expenses. SBA is removing these restrictions in regulation in order to expand eligibility for more small businesses to access debt refinancing under the 504 loan program. SBA will review comments received in response to this direct final rule and will consider further policy changes are needed.

C. Adding Consistency to the Standard for ''Substantially All'' Between Refinancing Without Expansion and Refinancing With Expansion

Under current regulations, one of the conditions of a 504 debt refinancing with expansion project is that substantially all (85% or more) of the proceeds of the indebtedness were used to acquire land, including a building situated on that land, to construct a building on that land, or to purchase equipment. The previous 504 debt refinancing rulemaking modified the 504 debt refinancing without expansion ''substantially all'' standard in the Qualified Debt definition by lowering the threshold from 85% to 75%. The effect was that this lowered standard only applied to 504 debt refinancing without expansion because the term ''Qualified Debt'' is only used in the context of 504 debt refinancing without expansion and not 504 debt refinancing with expansion.

SBA received input from NADCO and during lender round tables that this inconsistency of 75% for 504 debt refinancing without expansion and 85% for 504 debt refinancing with expansion is confusing and that it would be helpful to have a consistent standard between the debt refinancing with expansion and debt refinancing without expansion options for CDCs, third party lenders, and small businesses seeking 504 loan program assistance. Based on public comments received, SBA is making the ''substantially all'' standard consistent between the two programs by revising § 120.882(e)(1) to lower the ''substantially all'' standard from 85% to 75% for 504 debt refinancing with expansion. SBA will review comments received in response to this direct final rule and will consider further policy changes are needed to further expand the standard.

D. Allowing Other Secured Debt To Be Included as an Eligible Business Expense

Under current regulations, a debt refinancing without expansion project may include a request to finance eligible business expenses, which are limited to the operating expenses of the business. Debt is generally not included as an eligible business expense, except for certain types of unsecured debt. On occasion SBA Applicants have debt that has been secured by the same Eligible Fixed Assets securing the qualified debt that is the subject of the 504 debt refinancing project (''Other Secured Debt''). Under current regulations Other Secured Debt may not be part of the 504 debt refinancing project. As a result, the borrower, even with 504 financing, may be subject to debt and liens that are not in the best risk portfolio interest of the Agency. Including Other Secured Debt as an Eligible Business Expense is in alignment with 504 loan program goals, and the flexibility to include Other Secured Debt would further assist the small business in restructuring its outstanding debt. Even so, SBA will not consider Other Secured Debt that was incurred for capital expenditures as an Eligible Business Expense because such expenditures are not the day-to-day expenses of a business and SBA does not believe Congress intended that such expenditures be included as an Eligible Business Expense. Further, while a secured business line of credit may be an Eligible Business Expense, such Other Secured Debt will only be eligible as part of a 504 debt refinance without expansion financing provided any existing liens are subordinated to the 504 loan.

E. Revising 13 CFR 120.882(e)(5) and (g)(3)(iii) the Substantial Benefit Test for Government Guaranteed Debt for 504 Refinancing With and Without Expansion To Remove the 10% Standard

Under current regulations at 13 CFR 120.882(e)(5) and (g)(3)(iii), 504 debt refinancing must provide a ''substantial benefit'' to the borrower. For purposes of 504 debt refinancing a ''substantial benefit'' means that the portion of the new installment amount attributable to the debt being refinanced must be at least 10 percent less than the existing installment amount. In its public comments for the prior rulemaking, NADCO noted that because of the high interest rate environment and the large number of interest rate increases in recent year, the 10% substantial benefit test is overly burdensome for the 504 small business borrower. NADCO requested that SBA remove this test to provide the small business borrower the maximum opportunity to respond to market conditions.

SBA's concerns about portfolio risk for both the 504 and 7(a) programs led SBA to adopt the 10% substantial benefit test for the 504 loan program to provide parity with the 7(a) program's 10% substantial benefit test. There are substantial differences, however, between the programs that would obviate the necessity to anchor the 504 loan program to the 7(a) loan program's 10% substantial benefit test. For example, SBA's motivation for adopting a 10% substantial benefit test in 7(a) stemmed from the concern with using limited 7(a) program authority for refinancing, especially for other 7(a) loans already considered to be on reasonable terms, and the concern over the risk of considerable 7(a) secondary market distortions. Meanwhile, the 504 Loan Program has ample authority for debt refinancing and adding restrictions on 504 refinancing at the same level of 7(a) refinancing restrictions would be overly burdensome on the 504 small business borrower. The result is that

many small businesses are prevented from refinancing into a more favorable longer term fixed-rate product and must remain with their variable rate loan in a rising rate environment.

SBA is therefore revising 13 CFR 120.882(e)(5) and (g)(3)(iii) to remove the 10% substantial benefit test for both debt refinancing with expansion and debt refinancing without expansion, while maintaining the requirement that the 504 small business borrowers must have documented benefit in the restructuring of debt.

Review Act (5 U.S.C. 801–808), Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule does not constitutes a ''significant regulatory action'' for purposes of Executive Orders 12866. This direct final rule implements specific statutory provisions in section 328(a)(2)(A) and implements additional changes to debt refinancing in SBA's 504 loan program.

As shown in Tables 1A and 1B below, during the five-year period spanning fiscal year (FY) 2018 and FY 2024 (year-to-date (YTD) through May), a total of 47,252 504 loans were approved for a total gross approval amount as of May 31, 2024, of $43,003,577,000. In addition, during the past six fiscal years, SBA approved an average of 235 debt refinance with expansion loans per year with an average annual dollar volume of $305,542,333 and approved an average of 441 debt refinance without expansion loans per year with an average annual dollar volume of $470,209,333. In 2020, the Economic Aid Act increased the amount of existing indebtedness eligible for a debt refinance with expansion project from 50 percent of the project cost to 100 percent of the project cost which appears to have impacted loan size. The tables are arranged in order to convey the data while staying within the margin parameters of the **Federal Register** notice guidelines and are an update to the data provided in the 504 Debt Refinancing final rule published October 12, 2023. As this direct final rule, in part, is intended to correct drafting errors and provide eligibility clarifications in the prior final rule, SBA has updated data on through May 31, 2024, and included data reported through September 30, 2023 (last full fiscal year), in the final rule.

TABLE 1A—504 REFINANCING LENDING ACTIVITY FROM 2018 TO 2021

[Note: Table 1B on next page contains 2022 through YTD FY 24]

504 Cohort	2018	2019	2020	2021
Total Number of 504 Loans	5,874	6,099	7,119	9,676
Total Dollar Volume of 504 Loans Approved	$4,753,644,000	$4,958,552,000	$5,826,885,000	$8,218,105,540
Number of 504 Debt Refinancing with Expansion	181	181	236	301
Dollar Volume of 504 Debt Refinancing with Expansion	$212,098,000	$192,968,000	$296,392,000	$389,801,000
Number of 504 Debt Refinancing Without Expansion	181	166	386	693
Dollar Volume of 504 Debt Refinancing Without Expansion	$154,062,000	$154,842,000	$370,160,000	$709,020,000

TABLE 1B—504 REFINANCING LENDING ACTIVITY FROM 2022 TO YTD 2024 (MAY 31ST)

504 Cohort	2022	2023	FY 2024 YTD (as of May)	Totals FY 2019–YTD FY24 (May)
Total Number of 504 Loans	9,254	5,924	3,306	47,252
Total Dollar Volume of 504 Loans Approved	$9,207,996,290	$6,419,378,000	$3,619,017,000	$43,003,577,000
Number of 504 Debt Refinancing with Expansion	336	176	96	1,507
Dollar Volume of 504 Debt Refinancing with Expansion	$454,568,000	$287,427,000	$156,938,000	$1,990,192,000
Number of 504 Debt Refinancing Without Expansion	829	392	286	2,933
Dollar Volume of 504 Debt Refinancing Without Expansion	$959,897,000	$473,275,000	$333,791,000	$3,155,047,000

Prior to the change increasing the amount of existing indebtedness eligible for a debt refinance with expansion project from 50 percent of the project cost to 100 percent of the project cost, of the debt refinance with expansion loans, only 16 refinanced a debt that equaled 50 percent of the expansion costs. If these borrowers had been able to refinance 100 percent of the expansion costs instead of 50 percent, and assuming that all these borrowers did so, these borrowers would have been able to borrow $15 million more over five years, or about $3 million more annually. Since the passage of the Economic Aid Act, there have been 4,312 refinancing 504 loans approved of which 1,507 were debt refinancing with expansion and 2,933 were debt refinancing without expansion. In dollars approved, this is a combined amount of 504 refinancing loans totaling $5,145,239,0000 of which $1,990,192,000 was for refinancing with expansion and $3,155,047,000 was for refinancing without expansion.

TABLE 2A—504 LOAN ACTIVITY BY COHORT YEARS AUGUST TO JULY 2018 TO JULY 2021

[Note: Table 2B below contains July 2021 through YTD FY 24]

Cohorts	Aug'18–Jul'19	Aug'19–Jul'20	Aug'20–Jul'21
Total Number of 504 Loans	6,153	6,836	9,572
Total Dollar Volume of 504 Loans Approved	$5,063,078,000	$5,575,249,000	$7,934,192,540
Number of 504 Debt Refi With Expansion	183	243	295
Dollar Volume of 504 Debt Refi With Expansion	$191,786,000	$309,027,000	$362,039,000
Number of 504 Debt Refi Without Expansion	160	302	66

TABLE 2A—504 LOAN ACTIVITY BY COHORT YEARS AUGUST TO JULY 2018 TO JULY 2021—Continued

[Note: Table 2B below contains July 2021 through YTD FY 24]

Cohorts	Aug'18–Jul'19	Aug'19–Jul'20	Aug'20–Jul'21
Dollar Volume of 504 Debt Refi Without Expansion	$157,880,000	$295,396,000	$601,831,000

TABLE 2B—504 LOAN ACTIVITY BY COHORT YEARS AUGUST TO JULY 2021 TO YTD 2024 (MAY) [1]

Cohorts	Aug'21–Jul'22	Aug'22–Jul'23	Aug'23–May 24
Total Number of 504 Loans	9,392	6,253	4,312
Total Dollar Volume of 504 Loans Approved	$9,248,887,290	$6,624,952,000	$4,745,370,000
Number of 504 Debt Refi With Expansion	332	183	135
Dollar Volume of 504 Debt Refi With Expansion	$446,975,000	$305,619,000	$207,621,000
Number of 504 Debt Refi Without Expansion	934	388	383
Dollar Volume of 504 Debt Refi Without Expansion	$1,057,386,000	$432,638,000	$475,326,000

[1] As shown in Tables 2A and 2B, 504 Loan Activity by Cohort Years August to July 2018 to YTD 2024 (Feb), Data as of 9/15/2023, total dollar volume is lifetime gross approval amount including increases.

This direct final rule is necessary to implement the Economic Aid Act in full and provide economic relief to small businesses still adversely impacted by COVID–19. SBA anticipates that making these changes to the 504 debt refinancing programs will continue to result in benefits to small businesses by providing greater flexibility to restructure debt.

To assess the impact of the interim final rule, SBA evaluated 504 loan activity (including the number of loans and dollar volume of both debt refinance with expansion and debt refinance without expansion) between August 2018 and May 2024. Because the interim final rule was published on July 29, 2021, with immediate effectiveness, the first full month during which the modifications to 504 debt refinancing were available was August 2021, with August 2021 through July 2022 being the first 12-month period during which the modifications to 504 debt refinancing were available to 504 applicants. SBA divided the data into five cohorts of 12 months each, with the first cohort beginning in August 2018 and the last cohort beginning February 2024. See Tables 2A and 2B.

As an appropriate baseline for evaluation of the impacts of the direct final rule that would be made permanent in this rule, SBA considers the state of 504 lending for debt refinance with expansion and without expansion before July 2021. SBA examines the 12-month periods from August 1, 2018, through July 31, 2019, to the period from August 1, 2022, to July 31, 2023, noting that external influences from the pandemic and from payments made on behalf of borrowers by SBA under section 1112 of the Coronavirus Aid Recovery, and Economic Security Act (section 1112 payments) that ended in September 2021 occurred. The section 1112 payments required SBA to make principal and interest payments on 504 loans for certain periods of time depending on the when the 504 loan was approved, which would have made a 504 loan an attractive option for small businesses and consequently would have increased 504 loan volume. Further, interest rates on 504 loans in these two periods differ, from a range of approximately 4.0 to 5.0 percent in the earlier period to rates up to 7.0 percent in the later period, as do rates on alternatives to 504 loans. These changes mean that lending total volume by fiscal year comparisons may not be appropriate for assessment of impact. The current direct final rule is a drafting correction update for the previous final rule with the estimates of activity updated accordingly. The chart below also provided in the current rulemaking below shows these percentages for five August-July cohorts prior to the final rule published October 12, 2023. It is still current as the July 2024 data is not yet available.

	2018–19	2019–20	2020–21	2021–22	2022–23
Dollar Volume of 504 Debt Refi with Expansion as Percentage of Dollar Volume of Total 504 Loans	3.79	5.54	4.56	4.83	4.61
Dollar Volume of 504 Debt Refi without Expansion as Percentage of Dollar Volume of Total 504 Loans	3.12	5.30	7.59	11.43	6.53

As indicated in the chart, the percentages of 504 debt refinancing loans with and without expansion are in the recent period returning to the levels seen prior to the publication of the interim final rule in July 2021. For debt refinancing without expansion, the August 2020-July 2021 period was elevated, and the August 2021-July 2022 cohort was an outlier, but the next 12 months settled to a percentage that was at a level consistent with the periods before the interim final rule and not indicative of a significant impact. These two cohorts with higher 504 debt refinancing percentages occurred during the pandemic and were covered, at least in part, by section 1112 payments. The 12-month percentages of 504 debt refinancing with expansion did not vary widely.

The interim final rule increased the amounts on 504 debt refinancing with and without expansion. Aggregate 504 lending over the period in question ranged from approximately $5 billion to almost $9.25 billion, with total 504 lending in the latest 12-month cohort at about $6.6 billion. Even in the unlikely scenario of the prior rulemaking was the sole cause of an increase in total 504 lending from the low volume in the examined period of $5 billion (in 2018–19) to the latest 12-month total of $6.6 billion, the incremental impact, as indicated by changes in the percentage of total lending accounted for by each, is under $100 million.

Executive Order 13563

Executive Order 13563, Improving Regulation and Regulatory Review (January 18, 2011), requires agencies to adopt regulations through a process that involves public participation, and to the extent feasible, base regulations on the open exchange of information and perspectives from affected stakeholders and the public as a whole. SBA has developed this rule in a manner consistent with these requirements, and the public will have the opportunity to provide comments following the publication of this rule.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have preemptive effect or retroactive effect.

Executive Order 13132

This rule does not have Federalism implications as defined in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive order. As such it does not warrant the preparation of a Federalism Assessment.

Executive Order 13175

This final rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Congressional Review Act (5 U.S.C. 801–808)

Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996, also known as the Congressional Review Act, 5 U.S.C. 801 *et seq.,* 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. SBA will submit a report containing this rulemaking and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States. This rulemaking has been reviewed and determined not to meet the criteria set forth in 5 U.S.C. 804(2).

Paperwork Reduction Act

In order to implement the Economic Aid Act, SBA determined that it was necessary to modify SBA Form 1244, *Application for Section 504 Loans,* which is currently approved under OMB Control Number 3245–0071, to conform the form to the revised requirements for debt refinancing loans. The changes did not add any new burdens for the respondents, rather, in some instances, the revisions will result in reduced burden as applicants and CDCs no longer have to submit certain information.

(a) SBA will need to revise Form 1244 page 9 to add ''Other Secured Debt'' as a line item in the sources and uses document.

(b) SBA will need to revise Form 1244 Exhibit instructions in standard operating procedure (SOP) 50 10 7.1 to require a 75% substantial benefit for refinancing with expansion to match the last form change for refinancing with expansion. This revision did not change the information the CDC is required to collect, only the form instructions. No further changes are necessary.

Regulatory Flexibility Act, 5 U.S.C. 601–612

When an agency issues a rulemaking, the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires the agency to ''prepare and make available for public comment an initial regulatory analysis'' which will ''describe the impact of the proposed rule on small entities.'' The RFA requires such analysis only where notice and comment rulemaking are required. As discussed above, SBA has found good cause that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. Accordingly, SBA is not required to conduct a regulatory flexibility analysis and is publishing this rule as a direct final rule without advance notice and public comment. Further, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. SBA is nonetheless providing the following abbreviated analysis.

The changes in this direct final rule would, in part, be a drafting correction to 13 CFR 120.882. While there will be minor changes to SBA Form 1244, and the burden hours to the small business concern and the Certified Development Company will remain the same. There are no anticipated additional compliance costs. Furthermore, SBA does not anticipate that the additional changes to the Eligible Project costs for 504 loans regulations would have a significant impact to a substantial number of small businesses. This is because only a small percentage of each year's 504 loans involve debt refinancing without expansion. Each loan represents a unique small business borrower because these borrowers are only eligible to refinance their debt once in a fiscal year with the 504 Loan Program, and therefore do not have multiple 504 debt refinancing without expansion loans in any given year. Based on the average number of 504 loans from FY 2021–2023, only 13% involved debt refinancing without expansion. Specifically, in FY2021, out of 9,676 loans, 693 loans or 7% were for debt refinancing without expansion. In FY 2022, this figure was 829 out of 9,254 or 9% 504 loans, while in FY 2023, 1,005 out of 4,451 or 23% of 504 loans were for debt refinancing without expansion. While the percentage of the 504 loan portfolio involving debt refinancing without expansion increased by 20% from FY 2021 to 2023, this increase was due in part to section 1112 payments, and in part to a rapidly increasing interest rate environment. Because section 1112 payments have sunset, SBA believes that the 504 debt refinancing without expansion volume will return to the pre-section 1112 level of less than 10% of small entities. As such, SBA concludes that the rule will not impact a substantial number of small entities.

While the economic implications of the direct final rule are small and the data do not reveal a significant economic impact on a substantial number of small entities, SBA anticipates a refinancing growth rate more in alignment with pre-pandemic levels, with some adjustment to the economic impact because the final rule will expand program eligibility. In its final rule issued October 12, 2023, SBA analyzed potential growth scenarios of up to 30% growth in the 504 loan program, and even using this impact model (actual growth has never exceeded 15% in any prior fiscal year) the total of 504 debt refinance without expansion projects as a percentage of either number of loans or dollar volume of loans is not estimated to exceed 16% of the overall portfolio. As this is a direct final rule update to correct drafting issues with the previous final rule, the data provided at that time is still relevant. When this percentage is applied to the estimated number of

loans (small businesses impacted), this would result in less than 1,100 small businesses impacted. SBA estimates that the average monthly savings for small businesses that refinance their existing loans through the 504 loan program would be between $7,000 to $8,300 per month, with a total estimated savings over the life of the loan of between $202,000 to $227,000. SBA determined this estimate based on the historical average of a 504 debt refinancing without expansion loan averaging $1,000,000 for each small business applicant. SBA used the 504 June 2024 interest rates to calculate both the monthly and total loan savings to each small business concern. The lower end of the $202,000 to $227.0000 range reflects the economic impact if a small business concern refinanced for 20 years, while the higher end reflects the economic impact of a small business concern refinanced for 25 years. Small business concerns do not use 10 year 504 loans for debt refinancing without expansion, as their goal is to lower their payments by not only taking advantage of the 504 loan program's fixed interest rate, but also the longer 20 and 25-year loan terms available.

List of Subjects in 13 CFR Part 120

Business loan programs, Reporting and recordkeeping requirements, Small businesses.

Accordingly, for the reasons stated in the preamble, SBA amends 13 CFR part 120 as follows:

PART 120—BUSINESS LOANS

■ 1. The authority citation for 13 CFR part 120 continues to read as follows:

Authority: 15 U.S.C. 634(b) (6), (b) (7), (b) (14), (h), and note, 636(a), (h) and (m), 650, 687(f), 696(3) and (7), and 697(a) and (e); sec. 521, Pub. L. 114–113, 129 Stat. 2242; sec. 328(a), Pub. L. 116–260, 134 Stat. 1182.

■ 2. Amend § 120.882 by:
■ a. Revising paragraphs (e)(1) and (5), (g)(3)(iii), and (g)(6);
■ b. Removing and reserving paragraph (g)(10); and
■ c. In paragraph (g)(16), adding the definitions of ''Eligible Business Expenses,'' ''Operating Expenses,'' and ''Other Secured Debt'' in alphabetical order.

The revisions and additions read as follows:

§ 120.882 Eligible Project costs for 504 loans.

* * * * *

(e) * * *

(1) Substantially all (75% or more) of the proceeds of the indebtedness were used to acquire land, including a building situated thereon, to construct a building thereon, or to purchase equipment. The assets acquired must be eligible for financing under the 504 loan program. If the acquisition, construction, or purchase of the asset was originally financed through a commercial loan that would have satisfied the ''substantially all'' requirement and that was subsequently refinanced one or more times, with the current commercial loan being the most recent refinancing, the current commercial loan will be deemed to satisfy this paragraph (e)(1).

* * * * *

(5) The financing will provide a substantial benefit to the borrower when prepayment penalties, financing fees, and other financing costs are accounted for. For purposes of this paragraph (e)(5), *substantial benefit* means that the portion of the new installment amount attributable to the debt being refinanced must be less than the existing installment amount(s). Prepayment penalties, financing fees, and other financing costs must also be added to the amount being refinanced in calculating the percentage reduction in the new installment payment. Exceptions to the reduction requirement may be approved by the Director, Office of Financial Assistance (D/FA) or designee for good cause. PCLP CDCs may not use their delegated authority to approve a loan requiring this exception.

* * * * *

(g) * * *

(3) * * *

(iii) The refinancing will provide a substantial benefit to the Borrower. For purposes of this paragraph (g)(3)(iii), *substantial benefit* means that the portion of the new installment amount attributable to the debt being refinanced must be less than the existing installment amount(s). Prepayment penalties (including subsidy recoupment fees), financing fees, and other financing costs must be added to the amount being refinanced in calculating the percentage reduction in the new installment payment, but the portion of the new installment amount attributable to Eligible Business Expenses (as described in paragraph (g)(16) of this section) is not included in this calculation. Exceptions to the reduction requirement may be approved by the D/FA or designee for good cause. PCLP CDCs may not use their delegated authority to approve a loan requiring the exception in this paragraph (g)(3)(iii).

* * * * *

(6)(i) The portion of the Refinancing Project provided by the 504 loan and the Third Party Loan may be no more than 90% of the fair market value of the fixed assets that will serve as collateral.

(ii) The Borrower's application may include a request to finance Eligible Business Expenses as part of the Refinancing Project if the amount of cash funds that will be provided for the Refinancing Project exceeds the amount to be paid to the lender of the qualified debt. The Borrower's application must include a specific description of the Eligible Business Expenses for which the financing is requested and an itemization of the amount of each expense. Any debt for Operating Expenses of the business that was incurred with a credit card or a business line of credit may be included if the credit card or business line of credit is issued in the name of the small business and the Applicant certifies that the debt being refinanced was incurred exclusively for business related purposes. Loan proceeds must not be used to refinance any personal expenses. Both the CDC and the Borrower must certify in the application that the funds will be used to cover Eligible Business Expenses. Borrower must, upon request, substantiate the use of the funds provided for business expenses through, for example, bank statements, invoices marked ''paid,'' cleared checks, or any other documents that demonstrate that a business obligation was satisfied with the funds provided.

* * * * *

(16) * * *

Eligible Business Expenses are payments of the business for either Operating Expenses or Other Secured Debt.

* * * * *

Operating Expenses are expenses of the business that were incurred but not paid prior to the date of the 504 application or that will become due for payment within 18 months after the date of application. Examples include salaries, rent, utilities, inventory, and other expenses of the business that are not capital expenditures.

Other Secured Debt is debt incurred prior to the 504 loan application that has been secured by the same Eligible Fixed Assets securing the qualified debt and incurred for the benefit of the Borrower and/or Operating Company. Other Secured Debt does not include debt incurred for the purposes of capital expenditures, and any existing liens must be released or subordinated to the

amount of the debt being refinanced by the 504 loan.

* * * * *

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2024–22040 Filed 9–30–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31566; Amdt. No. 4131]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPS) and associated Takeoff Minimums and Obstacle Departure procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 1, 2024. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 2024.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30. 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Standards Section Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg 26, Room 217, Oklahoma City, OK 73099. Telephone (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The applicable FAA Forms are 8260–3, 8260–4, 8260–5, 8260–15A, 8260–15B, when required by an entry on 8260–15A, and 8260–15C.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers or aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPS, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Air Missions (NOTAM) as an emergency action of immediate flights safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

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. For the same

reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on September 13, 2024.

Thomas J. Nichols,

Standards Section Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 31 October 2024

Utqiagvik, AK, BRW/PABR, ILS OR LOC RWY 8, Amdt 3
Utqiagvik, AK, BRW/PABR, LOC BC RWY 26, Amdt 3
Utqiagvik, AK, BRW/PABR, RNAV (GPS) RWY 26, Amdt 2
Mountain Home, AR, BPK, ILS OR LOC RWY 5, Amdt 2
Mountain Home, AR, BPK, RNAV (GPS) RWY 5, Amdt 1
Mountain Home, AR, BPK, RNAV (GPS) RWY 23, Amdt 1
Key West, FL, EYW, RNAV (GPS) RWY 9, Amdt 2
Key West, FL, EYW, RNAV (GPS) RWY 27, Amdt 1
Fort Meade(Odenton), MD, FME, RNAV (GPS) RWY 10, Amdt 2
Fort Meade(Odenton), MD, FME, RNAV (GPS) RWY 28, Amdt 2
Fort Meade(Odenton), MD, KFME, Takeoff Minimums and Obstacle DP, Amdt 1
Jefferson City, MO, KJEF, Takeoff Minimums and Obstacle DP, Amdt 8
Battle Mountain, NV, BAM, RNAV (GPS) RWY 4, Amdt 2
Battle Mountain, NV, BAM, VOR RWY 4, Amdt 8
Las Vegas, NV, LAS, RNAV (GPS) RWY 1R, Amdt 5
Las Vegas, NV, LAS, RNAV (RNP) Z RWY 19L, Amdt 1
Las Vegas, NV, LAS, RNAV (RNP) Z RWY 19R, Amdt 1
Klamath Falls, OR, KLMT, CRATER ONE, Graphic DP
Klamath Falls, OR, KLMT, Takeoff Minimums and Obstacle DP, Amdt 6
Portland, OR, PDX, RNAV (RNP) Z RWY 10L, Amdt 2
Portland, OR, PDX, RNAV (RNP) Z RWY 10R, Amdt 1
Portland, OR, PDX, RNAV (RNP) Z RWY 28L, Amdt 1
Portland, OR, PDX, RNAV (RNP) Z RWY 28R, Amdt 2
Edna, TX, 26R, RNAV (GPS) RWY 15, Orig
Edna, TX, 26R, RNAV (GPS) RWY 33, Orig
Edna, TX, 26R, RNAV (GPS)–A, Orig-A, CANCELED
Edna, TX, 26R, RNAV (GPS)–B, Orig-A, CANCELED
Dublin, VA, PSK, RNAV (GPS) RWY 24, Amdt 2
Burlington, VT, BTV, ILS OR LOC RWY 15, Amdt 26
Burlington, VT, BTV, ILS OR LOC RWY 33, Amdt 2
Burlington, VT, BTV, RNAV (GPS) Z RWY 33, Amdt 1
Burlington, VT, BTV, VOR RWY 1, Amdt 1

[FR Doc. 2024–22461 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31567; Amdt. No. 4132]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective October 1, 2024. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 1, 2024.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops-M30, 1200 New Jersey Avenue SE, West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Information Services, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. 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.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Standards Section Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration. Mailing Address: FAA Mike Monroney Aeronautical Center, Flight Procedures and Airspace Group, 6500 South MacArthur Blvd., STB Annex, Bldg 26, Room 217, Oklahoma City, OK 73099. Telephone: (405) 954–1139.

SUPPLEMENTARY INFORMATION: This rule amends 14 CFR part 97 by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Air Missions (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14

CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, pilots do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary. This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (Air).

Issued in Washington, DC, on September 13, 2024.

Thomas J. Nichols,

Standards Section Manager, Flight Procedures and Airspace Group, Flight Technologies and Procedures Division, Office of Safety Standards, Flight Standards Service, Aviation Safety, Federal Aviation Administration.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, 14 CFR part 97 is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Procedure name
31–Oct–24	CO	Gunnison	Gunnison-Crested Butte Rgnl	4/0631	8/16/2024	RNAV (RNP) RWY 24, Orig-A.
31–Oct–24	NY	Rochester	Frederick Douglass/Greater Rochester Intl.	4/2502	7/16/2024	RNAV (GPS) RWY 22, Amdt 2B.
31–Oct–24	WI	Platteville	Platteville Muni	4/2624	7/29/2024	RNAV (GPS) RWY 7, Orig-D.
31–Oct–24	WI	Platteville	Platteville Muni	4/2626	7/29/2024	RNAV (GPS) RWY 15, Orig-A.
31–Oct–24	WI	Platteville	Platteville Muni	4/2636	7/29/2024	RNAV (GPS) RWY 33, Orig-A.
31–Oct–24	CO	Granby	Granby-Grand County	4/3062	7/17/2024	RNAV (GPS)-C, Orig.
31–Oct–24	AK	New Stuyahok	New Stuyahok	4/3349	8/6/2024	RNAV (GPS) RWY 14, Orig-A.
31–Oct–24	AK	New Stuyahok	New Stuyahok	4/3351	8/6/2024	RNAV (GPS) RWY 32, Orig-A.
31–Oct–24	SD	Pierre	Pierre Rgnl	4/4769	8/7/2024	RNAV (GPS) RWY 7, Amdt 2A.
31–Oct–24	NH	Keene	Dillant/Hopkins	4/5186	4/26/2024	ILS OR LOC RWY 2, Amdt 6.
31–Oct–24	NH	Keene	Dillant/Hopkins	4/5187	4/26/2024	RNAV (GPS) RWY 2, Amdt 1.
31–Oct–24	MI	Traverse City	Cherry Capital	4/5212	7/30/2024	RNAV (GPS) RWY 36, Orig-B.
31–Oct–24	MI	Traverse City	Cherry Capital	4/5214	7/30/2024	RNAV (GPS) RWY 28, Orig-B.
31–Oct–24	VA	Blackstone	Allan C Perkinson/Blackstone Aaf.	4/6093	7/23/2024	NDB–A, Amdt 13.
31–Oct–24	MN	Morris	Morris Muni/Charlie Schmidt Fld.	4/6537	8/27/2024	RNAV (GPS) RWY 14, Amdt 2.
31–Oct–24	MN	Morris	Morris Muni/Charlie Schmidt Fld.	4/6538	8/27/2024	RNAV (GPS) RWY 32, Amdt 2.

AIRAC date	State	City	Airport	FDC No.	FDC date	Procedure name
31–Oct–24	MN	Morris	Morris Muni/Charlie Schmidt Fld.	4/6539	8/27/2024	VOR RWY 14, Amdt 2.
31–Oct–24	MN	Morris	Morris Muni/Charlie Schmidt Fld.	4/6540	8/27/2024	VOR RWY 32, Amdt 6.
31–Oct–24	FL	Wauchula	Wauchula Muni	4/6914	7/5/2024	RNAV (GPS) RWY 18, Amdt 1D.
31–Oct–24	FL	Wauchula	Wauchula Muni	4/6915	7/5/2024	RNAV (GPS) RWY 36, Amdt 1D.
31–Oct–24	AL	Andalusia	South Alabama Rgnl At Bill Benton Fld.	4/7059	7/29/2024	NDB–A, Amdt 4.
31–Oct–24	AL	Andalusia	South Alabama Rgnl At Bill Benton Fld.	4/7060	7/29/2024	COPTER NDB RWY 29, Orig-A.
31–Oct–24	NY	Rochester	Frederick Douglass/Greater Rochester Intl.	4/7551	5/22/2024	ILS OR LOC RWY 4, ILS RWY 4 (SA CAT I), ILS RWY 4 (CAT II), Amdt 21B.
31–Oct–24	NY	Rochester	Frederick Douglass/Greater Rochester Intl.	4/7552	5/22/2024	RNAV (GPS) RWY 4, Amdt 2B.
31–Oct–24	GA	Sylvania	Plantation Airpark	4/8737	7/9/2024	RNAV (GPS) RWY 5, Amdt 1.
31–Oct–24	MO	Bowling Green	Bowling Green Muni	4/8755	8/14/2024	RNAV (GPS) RWY 13, Amdt 1.
31–Oct–24	MO	Bowling Green	Bowling Green Muni	4/8757	8/14/2024	RNAV (GPS) RWY 31, Amdt 1.
31–Oct–24	PA	Wilkes-Barre	Wilkes-Barre Wyoming Valley	4/9312	7/30/2024	RNAV (GPS) RWY 25, Orig-E.

[FR Doc. 2024–22462 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 42

[Docket No. PTO–P–2024–0014]

RIN 0651–AD79

Rules Governing Director Review of Patent Trial and Appeal Board Decisions

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

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) is adding a new rule to govern the process for the review of Patent Trial and Appeal Board (PTAB or Board) decisions in Leahy-Smith America Invents Act (AIA) proceedings by the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (Director). The new rule promotes the accuracy, consistency, and integrity of PTAB decision-making in AIA proceedings.

DATES: This rule is effective October 31, 2024.

FOR FURTHER INFORMATION CONTACT: Thomas Krause, Director Review Executive; Kalyan Deshpande, Vice Chief Administrative Patent Judge; or James Worth, Acting Senior Lead Administrative Patent Judge, at 571–272–9797.

SUPPLEMENTARY INFORMATION:

Executive Summary

Following the decision of the U.S. Supreme Court in *United States* v. *Arthrex, Inc.,* 141 S. Ct. 1970, 1986 (2021) (''*Arthrex*''), on June 29, 2021, the USPTO implemented an interim process for Director Review of final written decisions in AIA proceedings. To promote the accuracy, consistency, and integrity of PTAB decision-making in AIA proceedings, the USPTO then issued an updated ''Interim Process for Director Review'' on April 22, 2022. The updated interim process set forth guidance for parties who wished to request Director Review. This guidance increased clarity as the Office continued to update and improve the process based on experience and initial stakeholder feedback. The USPTO subsequently issued a Request for Comments (RFC) seeking public input on Director Review. 87 FR 43249–52 (July 20, 2022); 87 FR 58330 (Sept. 26, 2022) (extending comment period). Based on experience and in light of stakeholder feedback received in response to the RFC, on July 24, 2023, the USPTO modified the interim Director Review process to allow parties to request Director Review of decisions on institution in AIA proceedings. The USPTO then issued a Notice of Proposed Rulemaking (NPRM) on April 16, 2024, taking into consideration the feedback received in response to the RFC. Following the proposed rule and solicitation of public comments, 89 FR 26807 (Apr. 16, 2024), this final rule implements, in regulation, key aspects of the processes used for Director Review.

This final rule provides that a party to an AIA proceeding may request Director Review in that proceeding of any: (1) decision on institution, (2) final decision,[1] (3) decision granting rehearing of a decision on institution or a final decision, or (4) other decision concluding an AIA proceeding. In addition, the final rule provides that the Director may sua sponte (on their own initiative) initiate a review of such decisions. The final rule also sets forth the timing and format of a party's request for Director Review. The final rule addresses the impact of Director Review on the underlying proceeding at the PTAB, as well as the time by which an appeal to the U.S. Court of Appeals for the Federal Circuit must be filed. The final rule also provides that the Director may delegate a review.

Background

On September 16, 2011, Congress enacted the AIA (Pub. L. 112–29, 125 Stat. 284 (2011)). The AIA established the PTAB,[2] which is made up of administrative patent judges (APJs) and four statutory members, namely the Director, the Deputy Director, the Commissioner for Patents, and the Commissioner for Trademarks. 35 U.S.C. 6(a). The Director is appointed by the President, by and with the advice and consent of the Senate. 35 U.S.C. 3(a)(1). APJs are appointed by the Secretary of Commerce in consultation with the Director. *Id.* section 6(a). The PTAB hears and decides ex parte appeals of adverse decisions by examiners in applications for patents, applications for reissue, and reexamination proceedings, and

[1] As discussed below, as used in the final rule, ''final decision'' is defined as both final written decisions under 35 U.S.C. 318, 328, for inter partes review and post grant review proceedings, and also final decisions under 35 U.S.C. 135, for derivation proceedings.

[2] The PTAB was previously known as the Board of Patent Appeals and Interferences.

conducts proceedings under the AIA, including inter partes reviews (IPRs), post grant reviews (PGRs), and derivation proceedings, all in panels of at least three members. *Id.* sections 6(b), (c). Under the statute, the Director designates the members of each panel. *Id.* section 6(c). The Director has delegated that authority to the Chief Judge of the PTAB. See PTAB Standard Operating Procedure 1 (Rev. 16) (SOP 1), Assignment of Judges to Panels, available at *www.uspto.gov/sites/default/files/documents/sop1_r16_final.pdf.*

35 U.S.C. 6(c) states that ''[o]nly the Patent Trial and Appeal Board may grant rehearings'' of Board decisions. In *Arthrex,* the Supreme Court held that the Appointments Clause of the Constitution (art. II, sec. 2, cl. 2) and the supervisory structure of the USPTO require the Director, a principal officer of the United States, to have the ability to review the PTAB's final written decisions in IPR proceedings. See *Arthrex,* 141 S. Ct. at 1986. The Court determined that ''35 U.S.C. 6(c) is unenforceable as applied to the Director insofar as it prevents the Director from reviewing the decisions of the PTAB on [the Director's] own.'' *Id.* at 1987. The Court added that:

> this suit concerns only the Director's ability to supervise APJs in adjudicating petitions for inter partes review. We do not address the Director's supervision over other types of adjudications conducted by the PTAB, such as the examination process for which the Director has claimed unilateral authority to issue a patent.

Id. The Court thus held that ''the Director has the authority to provide for a means of reviewing PTAB decisions'' in IPR proceedings and ''may review final PTAB decisions and, upon review, may issue decisions . . . on behalf of the Board.'' *Id.* Additionally, the Court in *Arthrex* made clear that ''the Director need not review every decision of the PTAB,'' nor did it require the Director to accept requests for review or issue a decision in every case. *Id.* at 1988. Instead, ''[w]hat matters is that the Director have the discretion to review decisions rendered by APJs.'' *Id.; see Arthrex, Inc.* v. *Smith & Nephew, Inc.,* 35 F.4th 1328, 1338 (Fed. Cir. 2022) (noting same); *CyWee Grp. Ltd.* v. *Google LLC,* 59 F.4th 1263, 1268 (Fed. Cir. 2023) (''[T]he Appointments Clause was intended to prevent unappointed officials from wielding too much authority, not to guarantee procedural rights to litigants, such as the right to seek rehearing from the Director.'' (quoting *Piano Factory Grp., Inc.* v. *Schiedmayer Celesta GmbH,* 11 F.4th 1363, 1374 (Fed. Cir. 2021)).

Following the *Arthrex* decision, on June 29, 2021, the USPTO implemented an interim process for Director Review of final written decisions in IPR or PGR proceedings and published *Arthrex* Questions and Answers (Q&As), available on a USPTO web page.[3] On April 22, 2022, the USPTO published two web pages to replace the *Arthrex* Q&As. Specifically, the USPTO published an ''Interim Process for Director Review'' web page,[4] setting forth more details on the interim process and additional suggestions and guidance for parties who wish to request Director Review. The updated interim process guidance increased clarity as the Office continued to update and improve the interim Director Review process based on experience and initial stakeholder feedback. The USPTO also published a web page providing the status of all Director Review requests, available at *www.uspto.gov/patents/patent-trial-and-appeal-board/status-director-review-requests* (status web page). The Director Review status web page includes a spreadsheet that is updated monthly and presents additional information about the proceedings in which Director Review has been granted.

On July 20, 2022, the USPTO issued an RFC[5] on Director Review, Precedential Opinion Panel (POP) review,[6] and the internal circulation and review of PTAB decisions. 87 FR 43249–52.[7] Based on experience and in light of stakeholder feedback received in response to the RFC, on July 24, 2023, the USPTO modified the interim Director Review process to allow parties to request Director Review of decisions on institution in AIA proceedings, and to introduce a process by which the Director may delegate review of a Board decision to a Delegated Rehearing Panel (DRP). See ''Revised Interim Director Review Process'' web page (available at *www.uspto.gov/patents/ptab/decisions/revised-interim-director-review-process*) (Director Review web page);[8] ''Delegated Rehearing Panel'' web page (available at *www.uspto.gov/patents/ptab/decisions/delegated-rehearing-panel*). The USPTO made additional updates to the interim Director Review process on September 18, 2023, (updating processes related to Director Review of PTAB decisions on remand from the Director), January 19, 2024, (updating processes related to requests for rehearing of Director Review decisions), and April 16, 2024, (providing step-by-step instructions on how to file a request for Director Review).

Request for Comments

As noted above, on July 20, 2022, the Office published an RFC on Director Review, POP review, and the internal circulation and review of PTAB decisions. 87 FR 43249–52. The USPTO received 4,377 comments from intellectual property organizations, trade organizations, other organizations, and individuals, on all aspects of the RFC, including twelve specific responses to questions 2–12 related to Director Review or POP review. All comments are publicly available at the Federal eRulemaking Portal at *www.regulations.gov/docket/PTO-P-2022-0023/comments.* A summary of the pertinent comments is available in the NPRM at *www.regulations.gov/document/PTO-P-2024-0014-0001.* 89 FR 26807 (Apr. 16, 2024).

Proposed Rule: Comments and Responses

On April 16, 2024, after careful consideration of the public input received in response to the RFC, the USPTO published a notice of proposed rulemaking to set forth key aspects of the processes used for Director Review. See 89 FR 26807. The notice of proposed rulemaking provided for a 60-day comment period.

The Office received a total of 12 comments from eleven organizations and one individual. The Office appreciates the thoughtful comments representing views from various public stakeholder communities. The

[3] This web page was superseded by the ''Revised Interim Director Review Process'' web page, discussed below, but remains available at *www.uspto.gov/patents/patent-trial-and-appeal-board/procedures/arthrex-qas.*

[4] This web page was also superseded by the ''Revised Interim Director Review Process'' web page.

[5] Request for Comments on Director Review, Precedential Opinion Panel Review, and Internal Circulation and Review of Patent Trial and Appeal Board Decisions. 87 FR 43249–52 (July 20, 2022).

[6] The USPTO established the POP review process in 2018 and set forth that process in the Board's Standard Operating Procedure 2, revision 10. The POP process was used to establish binding agency authority concerning major policy or procedural issues, or other issues of exceptional importance in the limited situations where it was appropriate to create such binding agency authority through adjudication before the PTAB. The USPTO retired the POP process on July 24, 2023, in view of the interim Director Review process.

[7] Available at *www.federalregister.gov/documents/2022/07/20/2022-15475/request-for-comments-on-director-review-precedential-opinion-panel-review-and-internal-circulation.*

[8] As used herein, the term ''Director Review web page'' encompasses both the Revised Interim Director Review Process web page and the new Director Review web page. The Revised Interim Director Review Process web page remains in effect until the effective date of this rule, after which the new Director Review web page will publish and become effective.

comments are publicly available at the Federal eRulemaking Portal at *www.regulations.gov/document/PTO-P-2024-0014-0001.*

Commenters were generally supportive of the proposed rule and agreed that the rule would promote the accuracy, consistency, and integrity of PTAB decision-making in AIA proceedings. Some commenters suggested expanding the scope of Director Review, for example, to include decisions on ex parte appeals and reexamination appeals. A summary of the comments and the Office's responses are provided below. The Office's responses address the comments that are directed to the proposals set forth in the NPRM. Any comments directed to topics beyond the scope of the NPRM are not addressed.

Comment 1: Four commenters suggested adding formal standards of review to the rule, with various standards proposed. Two commenters recommended expressly incorporating the standards of review currently set forth in the interim Director Review process. A third commenter recommended a de novo standard of review for any questions of law and a more deferential standard of clear error for questions of fact with respect to final written decisions. The same commenter also recommended applying a deferential standard, such as abuse of discretion, for review of decisions granting institution. A fourth commenter recommended the rule specify de novo review for all Director Review decisions.

Response: The Office appreciates these thoughtful comments, but does not adopt the suggestions at this time. The Supreme Court's *Arthrex* decision necessitates that the Director be able to review decisions in AIA proceedings but *Arthrex* does not limit or prescribe the manner or standard by which the Director conducts that review. Moreover, the comments identify different standards of review and do not identify a single consensus approach. The rule provides the Director with flexibility as to the standards of review to be applied in the Director Review process. The Office will continue to provide guidance on any applicable standard through the Director Review web page consistent with the final rule.

Comment 2: One commenter suggested adding a provision to the rule to state that Director Review decisions will be made precedential only when the Director determines that there is a compelling need to set binding policy. Another commenter likewise expressed support for a rule that Director Review decisions are not precedential by default.

Response: The Office appreciates the comments, but does not adopt the suggestion to include a provision in the rule related to the designation of Director Review decisions. Currently, Director Review decisions are, by default, routine decisions as set forth in Standard Operating Procedure 2, and are designated precedential only at the Director's determination. See PTAB Standard Operating Procedure 2 (Rev. 11) (SOP 2), Designation or De-designation of Decisions as Precedential or Informative, available at *www.uspto.gov/sites/default/files/documents/20230724_ptab_sop2_rev11_.pdf;* see also Revised Interim Director Review Process web page section 5.B. To date, the Office has designated only seven Director Review decisions as precedential. The rule provides the Director with flexibility as to designation of Director Review decisions.

Comment 3: One commenter suggested adding a provision to the rule requiring that a request for Director Review set forth the reason(s) why the requester believes the decision for which review is sought presents an: (a) abuse of discretion, (b) important issue of law or policy, (c) erroneous finding of material fact, and/or (d) erroneous conclusion of law. The commenter suggested that the requester be required to highlight issues of exceptional importance, conflicts between Board decisions, or issues relating to application of law to matters before the Board.

Response: The Office appreciates the comment, but does not adopt the suggestion. Although issue identification by a requester is helpful and encouraged, especially where a Director Review request presents multiple issues, the Office does not find it necessary to impose such a requirement by rule. Implementation details relating to the manner of filing a request for Director Review, including possible issues to address in a Director Review request, are provided on the Director Review web page and will continue to be reflected on a new Director Review web page consistent with the final rule.

Comment 4: One commenter recommended limiting sua sponte Director Review to issues of exceptional importance, resolving conflicts between Board decisions, and/or matters of certainty and consistency in the application of law to matters before the Board.

Response: The Office appreciates the comment, but declines to limit the Director's ability to grant sua sponte review by rule. Consistent with *Arthrex,* the rule provides the Director with flexibility in initiating sua sponte review. The Office will continue to provide guidance on any applicable standard for sua sponte review through the Director Review web page consistent with the final rule.

Comment 5: One commenter recommended adding a provision to the rule to explain that the phrase ''any interlocutory decision rendered by the Board in reaching that decision,'' in § 42.75(a), shall be construed broadly to include any interlocutory decision that plausibly affected the outcome of the proceeding before the Board. The commenter suggested that such actions must be open to Director Review and that the Director must have broad discretion to review interlocutory decisions from the Board.

Response: The Office appreciates the comment, but does not adopt the recommendation. Consistent with the comment, the final rule expressly states that the Director may review ''any interlocutory decision rendered by the Board'' in reaching a decision for which Director Review may be requested or initiated. Further clarification of the phrase, or its broad language ''any,'' is unnecessary.

Comment 6: Several commenters suggested revising the rule to allow parties to request Director Review of proceedings other than inter partes review and post grant review including, *e.g.,* derivations and appeals from ex parte examination, ex parte reexaminations, and reissue applications, potentially with different pages limits for these requests. Two commenters identified public policy benefits associated with expansion of Director Review, in part because the Director is a principal officer of the United States. One commenter promoted merging the Appeals Review Panel [9] and Director Review procedures. Another commenter suggested that the Supreme Court's *Arthrex* decision requires Director Review of ex parte PTAB decisions, and cited to the Supreme Court's remand of In re Boloro Glob. Ltd., 963 F.3d 1380 (Fed. Cir. 2020), In re Bottomline Techs. (de), Inc., No. 2020–1161 (Fed. Cir. Aug. 4, 2020), and others, in support.

Response: The Office appreciates these comments regarding the types of proceedings for which Director Review may be requested and the Office adopts

[9] The Appeals Review Panel may be convened by the Director sua sponte to review PTAB decisions in ex parte appeals, re-examination appeals, and reissue appeals. See *www.uspto.gov/patents/ptab/appeals-review-panel.*

these suggestions in part at this time. The Supreme Court's decision in *Arthrex* concerned AIA trial proceedings. 141 S. Ct. 1970, 1987. This rule is promulgated under Chapter 42, directed to trial practice before the Board. Consistent with current practice, the rule permits Director Review of derivation proceedings. The rule has been amended to expressly reference the derivation statute. Additionally, consistent with these comments regarding expansion, the Office has further amended the rule to expressly indicate that Director Review is available for any other decision concluding an AIA proceeding such as, for example, a decision terminating the proceeding, *e.g.,* due to a grant of adverse judgment, or a dismissal of the proceeding. This expansion is consistent with the reasoning of *Arthrex,* which requires the Director to be able to review final decisions of the Board in AIA proceedings. The Office does not adopt the suggestion to expand Director Review to include review of PTAB decisions in appeals of ex parte examination (including appeals from reexamination or reissue applications) or reexamination at this time.

Comment 7: One commenter suggested that the Director entirely delegate the Director Review function to a delegatee office, similar to how petitions to the Director are handled during the patent examination process. The commenter expressed concern that involvement by the Director in disputes between private parties overly politicizes patents, causes a loss of confidence in the patent system, and takes up too much of the Director's time. The commenter suggested that the Director should rarely, if ever, intervene in individual cases. The commenter recommended that review by the Director be reserved for rare cases where perceived defects could not be adequately corrected by the delegatee office.

Response: The Office appreciates the comment, but does not adopt the suggestion at this time. The rule allows the Director to delegate review at the Director's discretion. In order to provide the Director a flexible approach to delegation, the Office declines to require delegation of all cases, or to a specific delegatee Office.

Comment 8: One commenter suggested limiting requests for Director Review to only final written decisions to avoid straining Office and party resources. Another commenter suggested limiting requests for Director Review of decisions under 35 U.S.C. 314 or 324 to only denials of institution to prevent disruption of the AIA trial process, when trial has been instituted, and to provide an option for review in cases where appeal is not available.

Response: The Office appreciates these thoughtful comments regarding the available scope of Director Review; however, these suggestions are not adopted. The Office modified the interim Director Review process to allow parties to request Director Review of all decisions on institution under 35 U.S.C. 135, 314, or 324 in AIA proceedings on July 24, 2023. Since then, as of August 1, 2024, the Office has received requests for Director Review of 49 final written decisions and 115 decisions on institution. Of the 115 requests for decisions on institution, 74 requests were directed to denials of institution and 41 requests were directed to grants of institution. The Office's experience with the interim Director Review process indicates that the Office is not strained or overburdened by permitting parties to request Director Review of institution decisions. Even with the addition of requests for Director Review of institution decisions, the Director has continued to issue decisions as to whether to grant or deny the request for Director Review, on average, in less than two months.

Further, the Office declines to limit requests for Director Review of institution decisions to denials of institution. Providing both parties the opportunity to request Director Review following an institution decision best aligns with the Office's priority to promote the accuracy, consistency, and integrity of PTAB decision-making in AIA proceedings.

Comment 9: Two commenters suggested adding various time limits for Director Review. One commenter recommended adding a 30-day deadline within which the Director shall issue a decision granting, denying, or delegating a party's request for Director Review. The same commenter also recommended establishing a three-month deadline from the date of the Director Review request for completion of Director Review but allowing exceptions upon a showing of good cause. A second commenter also recommended adding a deadline by which Director Review must conclude, but did not propose a specific time limit. The same commenter suggested that a rule setting forth a time limit would provide parties with timing certainty, *e.g.,* for purposes of an appeal or to lift a stay in a parallel proceeding.

Response: The Office appreciates these comments, but does not adopt the suggestions at this time. The rule allows parties to request Director Review from the Board's decision on institution, final decision, grant of rehearing of such a decision, or other decision concluding an AIA proceeding. Given the breadth of issues that may be presented for Director Review, a uniform time limit for Director Review, whether for determinations to grant Director Review or for the issuance of Director Review decisions, would not be appropriate. Although some requests for Director Review can be disposed of within a predictable timeframe, others require more time, as dictated by the facts of the proceeding. The rule, therefore, provides the Director with necessary flexibility to carefully review and decide Director Review requests. The Office notes that the rule provides a time frame in which the Director will typically initiate sua sponte Director Review, providing the parties guidance regarding whether the Director will review a Board decision absent a request. The Office further notes that since it expanded the interim Director Review process to permit requests from institution decisions, the Director has issued decisions as to whether to grant or deny the request for Director Review, on average, in less than two months. The Office will continue to provide status updates as to pending requests for Director Review on the Director Review status web page.

Comment 10: One commenter suggested amending the rule to require that the Director remand a decision denying institution of a PGR to a different panel if the Director identifies an abuse of discretion, failure to address an issue, or an erroneous finding of fact or law.

Response: The Office appreciates the thoughtful comment but does not adopt this suggestion. The final rule sets forth the Director Review process, but does not address paneling or repaneling procedures at the Board. Thus, the suggested procedure for repaneling cases is outside the scope of the rule. Further, the Director's involvement in the paneling or repaneling of any specific proceeding before the PTAB prior to issuance of a decision is controlled by PTAB SOP 1 and 37 CFR 43.3(d). In particular, the Director's authority under 35 U.S.C. 6(c) has been delegated to the PTAB Chief Judge and the Director is not involved in directing or otherwise influencing the paneling or repaneling of any specific proceeding before the PTAB prior to issuance of the panel decision. See SOP 1, 37 CFR 43.3(d).

Comment 11: One commenter requested that the Office provide a mechanism for parties seeking a good

cause extension of time under § 42.75(c)(1).

Response: The Office appreciates the suggestion but declines to implement it in the rule. The rule allows for an extension of time upon a showing of good cause and, consistent with Board practice, the burden is on the requesting party to provide good cause as to why the extension should be granted. *Cf.* 37 CFR 42.20(c) (''The moving party has the burden of proof to establish that it is entitled to the requested relief.''). Also consistent with Board practice, any request for an extension of time must be made sufficiently in advance of the due date for submitting a Director Review request.

Comment 12: One commenter suggested amending the rule to permit amicus briefing whenever the Director grants a request with respect to an important issue of law or policy. Another commenter suggested adopting a policy to presumptively allow the filing of amicus briefs in Director Review cases. These commenters suggest that routinely allowing amicus briefs will ensure that any member of the public with an interest in an issue can provide input. In the commenters' view, members of the public may be in a better position to perceive potential impacts and policy implications raised by a request.

Response: The Office appreciates these thoughtful comments, but the suggestions are not adopted. Although the Office agrees that amicus briefs may provide helpful input on important issues of law and policy, Director Review decisions are generally based on the existing record of a proceeding and typically do not need amicus briefing. The Director retains the authority to request amicus briefing, where deemed appropriate, and has requested such briefing in certain cases. Permitting amicus briefing in all cases may introduce unnecessary delays in the Director Review process.

Comment 13: One commenter suggested increasing transparency in the Director Review process. The commenter specifically suggested that the Office provide additional detail regarding the Director's authority to delegate review under proposed § 42.75(f), the Director's decision-making process, and the identity of members of the Director's Advisory Committee.

Response: The Office appreciates the thoughtful comment but does not adopt this suggestion. The Director Review web page provides details about the Director's delegation of review, the decision-making process, and the Advisory Committee. For example, as discussed on the Director Review web page, the Director makes all Director Review decisions, unless the Director delegates review. When delegating review, the Director will expressly identify the delegated decision-maker(s). The Director may be assisted by an Advisory Committee during the Director Review process. The Director Review web page describes, in detail, the role of the Advisory Committee and its composition. The Advisory Committee typically comprises members from various business units of the USPTO, including: Office of the Under Secretary (not including the Director or Deputy Director), Patent Trial and Appeal Board (not including members of the panel for each case under review), Office of the Commissioner for Patents (not including the Commissioner for Patents or any persons involved in the examination of the challenged patent), Office of the General Counsel (which includes the Office of the Solicitor), and Office of Policy and International Affairs. The Advisory Committee evaluates requests for Director Review and provides a single recommendation to the Director that includes a consensus recommendation from various business units of the Office, or notes differing views among the Advisory Committee members.

Changes From the Proposed Rule

Upon careful consideration of the public comments, the Office adopts the provisions in the proposed rule with a few minor changes in the rule language, as discussed below.

In this final rule, the Office modifies § 42.75(a), (d), and (e) to expressly provide for Director Review of derivation proceedings under 35 U.S.C. 135. Such review is consistent with the interim process and the NPRM, although the specific statutory subsection was not identified in the rule language. Similarly, in the final rule, the Office modifies § 42.75(a) to expressly defines ''final decision'' as including both final written decisions under 35 U.S.C. 318, 328, and also final decisions under 35 U.S.C. 135.

The Office also modifies § 42.75(a), (d), and (e) to expressly provide for Director Review of any other decision concluding a proceeding brought under 35 U.S.C. 135, 311, or 321, consistent with the Supreme Court's holding in *Arthrex.* See *Arthrex,* 141 S. Ct. at 1987 (''The Director accordingly may review final PTAB decisions and, upon review, may issue decisions [themselves] on behalf of the Board.''). For example, the Director may elect to review a Board decision that dismisses an AIA proceeding or terminates an AIA proceeding, *e.g.,* through the grant of adverse judgment.

Finally, the Office modifies § 42.75(d) to provide that an underlying Board decision does not become final if there is an extension of time for a party to file a request for Director Review, in order to conform to the language of paragraph (d) with the language of paragraph (c)(1).

Discussion of Specific Rules

This final rule amends part 42 to set forth regulations governing the procedures for Director Review of decisions in AIA proceedings. The USPTO issues this final rule to promote the accuracy, consistency, and integrity of PTAB decision-making in AIA proceedings.

The USPTO adds § 42.75(a) to set forth the general availability of Director Review for any decision on institution under 35 U.S.C. 135, 314, or 324, any final decision under 35 U.S.C. 135, 318 or 328, any decision granting rehearing of such a decision, or any other decision concluding a proceeding brought under 35 U.S.C. 135, 311, or 321; and to expressly define ''final decision.''

The USPTO adds § 42.75(b) to set forth sua sponte Director Review.

The USPTO adds § 42.75(c) to set forth party requests for Director Review and the requirements of such requests.

The USPTO adds § 42.75(d) to specify the finality of decisions subject to Director Review.

The USPTO adds § 42.75(e) to specify the process for Director Review and the availability for appeal of a Director Review decision of certain Board decisions.

The USPTO adds § 42.75(f) to permit delegation of a review by the Director.

The USPTO adds § 42.75(g) to specify provisions regarding communications with the Office.

Final Rules and Interim Director Review Process

Under the Director Review process set forth in this final rule, a party may only request Director Review of: (1) a decision on whether to institute an AIA trial, (2) a final decision in an AIA proceeding, (3) a panel decision granting a request for rehearing of a decision on whether to institute a trial or a final decision in an AIA proceeding, or (4) any other decision concluding an AIA proceeding, for example, a termination due to a grant of adverse judgment under 37 CFR 42.73(b). In accordance with this final rule, the Director may also grant review of those same decisions sua sponte.

The Director Review web page further explains that parties must file their request for Director Review in the Patent Trial and Appeal Case Tracking System and must also send an email to the Director at *Director_PTABDecision_Review@uspto.gov*. As described on the Director Review web page, third parties may not request Director Review or communicate with the USPTO concerning the Director Review of a particular case unless the Director invites them to do so.

As set forth in this final rule, in the course of reviewing such a decision on Director Review, the Director may review any interlocutory decision rendered by the Board in reaching that decision.

Moreover, under this final rule, parties are limited to requesting either: (1) Director Review or (2) rehearing by the original panel, but may not request both. As described on the Director Review web page, requests for both Director Review and panel rehearing of the same decision are treated as a request for Director Review only. However, as set forth in this final rule, parties may request Director Review of a decision by a panel granting rehearing of a prior PTAB decision on institution or final decision. ''[G]ranting rehearing'' here means that the rehearing decision modifies the holding or result of the underlying decision in some fashion. For example, where a Board panel changes the determination of a final written decision for certain claims from unpatentable to not unpatentable in a rehearing decision, the petitioner may file a Request for Director Review of that new determination as to those claims. As another example, rehearing is not ''granted'' if the panel: (1) provides a decision addressing the arguments in the request for rehearing but does not modify the underlying holding or result, or (2) denies the request for rehearing without further explanation. In this situation, Director Review of the rehearing decision is not available.

As set forth on the Director Review web page, each request for Director Review is considered by an Advisory Committee that assists the Director. The Advisory Committee has at least 11 members and includes representatives from various business units within the USPTO who serve at the discretion of the Director. The Advisory Committee currently is chaired by a Director Review Executive and comprises members from the Office of the Under Secretary (not including the Director or Deputy Director); the Patent Trial and Appeal Board (not including members of the original panel for each case under review); the Office of the Commissioner for Patents (not including the Commissioner for Patents or any persons involved in the examination of the challenged patent); the Office of the General Counsel (which includes the Office of the Solicitor); and the Office of Policy and International Affairs. The Advisory Committee meets periodically to evaluate each request for Director Review.[10] Advisory Committee meetings may proceed with fewer than all members in attendance, as long as a quorum of seven members is present. The Advisory Committee presents the Director with a recommendation. The recommendation includes either a consensus from the various members of the Advisory Committee, or notes differing views among the Advisory Committee members.

The Director also receives each Director Review request, the underlying decision, and associated arguments and evidence. The Director determines whether to grant or deny the request for Director Review, or to delegate the review of a Board decision. The Director may also consult others in the USPTO as needed, so long as those individuals consulted do not have a conflict of interest. Although the Advisory Committee and other individuals in the USPTO may advise the Director on whether a decision warrants review, the Director has sole discretion to resolve each request for Director Review. The Director's decision on each request will be communicated to the parties in the proceeding. Furthermore, Director Review grants and delegations will be posted on the Director Review status web page. Other determinations, such as Director Review denials, dismissals, and withdrawals, will be cataloged and posted on the Director Review status web page spreadsheet.

Pursuant to this final rule, in addition to allowing parties to request Director Review of certain decisions, the Director may order sua sponte Director Review. Sua sponte Director Review is typically reserved for issues of exceptional importance, and the Director retains the authority to initiate review sua sponte of any issue in the proceeding, as the Director deems appropriate. As explained in SOP 4, an internal post-issuance review team at the PTAB reviews issued decisions and, if warranted, flags certain AIA decisions as potential candidates for sua sponte Director Review. See PTAB SOP 4,[11] at 1, 5. In addition, and as described on the Director Review web page, the Director may also convene the Advisory Committee to make recommendations on decisions that the Director is considering for sua sponte Director Review. If the Director initiates a sua sponte review, the parties will be given notice and may be given an opportunity for briefing. The public will also be notified, and the Director may request amicus briefing. If briefing is requested, the procedures to be followed will be set forth.

The final rule sets forth that absent exceptional circumstances (which might include a remand from the Federal Circuit for the purpose of Director Review), the Director may initiate sua sponte review at any point within 21 days after the expiration of the period for filing a request for rehearing, pursuant to § 42.71(d), as appropriate to the type of decision (*i.e.,* a decision on institution or a final written decision) for which review is sought.

The final rule also sets forth that a decision on institution, a final decision, a decision granting rehearing of such decision on institution of a final decision, or any other decision concluding an AIA proceeding shall become the decision of the agency unless Director Review is requested or sua sponte review is initiated. Moreover, upon denial of a request for Director Review of such a decision, the Board's decision becomes the final agency decision.

The final rule sets forth that, by default, a request for Director Review or the initiation of sua sponte Director Review resets the time for appeal until all issues on Director Review are resolved. A request for Director Review or the initiation of sua sponte Director Review does not stay or delay the time for the parties to take action in the underlying proceeding before the PTAB, unless the Director orders otherwise. The final rule sets forth that if the Director grants a Director Review, the Director will issue an order or decision that will be made part of the public record, subject to any confidentiality requirements. A grant of Director Review that is not withdrawn will conclude with the issuance of a decision or order providing the Director's reasoning in the case.

The final rule sets forth that a party may appeal a Director Review decision

[10] No member of the Advisory Committee may participate in the consideration of a request for Director Review if that member has a conflict of interest under the U.S. Department of Commerce USPTO Summary of Ethics Rules, available at *www.uspto.gov/sites/default/files/documents/USPTO-Summary_of_Ethics_Rules-2022.pdf.* PTAB APJs who are Advisory Committee members will also follow the guidance on conflicts of interest set forth in the PTAB SOP 1, and will recuse themselves from any discussion involving cases on which they are paneled.

[11] Available at *www.uspto.gov/sites/default/files/documents/ptab_sop_4-2023-oct.pdf.*

of a final decision, rehearing thereof, or other appealable decision concluding an AIA proceeding, to the United States Court of Appeals for the Federal Circuit using the same procedures for appealing other PTAB decisions under 35 U.S.C. 141(c), 141(d), 319. Director Review decisions on decisions on institution are not appealable.

The final rule set forth that the Director may, at their discretion, delegate the review of a Board decision in an AIA proceeding.

As described on the Director Review web page, decisions made on Director Review are not precedential by default, but may be designated as precedential by the Director. See also SOP 2. Additional implementation details of the Director Review process are provided on the Director Review web page. On the rule's effective date, a new Director Review web page reflecting the content of the rule will supersede the Revised Interim Director Review Process page.

Application of Director Review Process to Date

As of August 1, 2024, the USPTO has received 382 compliant requests for Director Review under the interim process. Of those requests, the Director Review process was completed for 369 requests. Of the 369 completed requests, 24 requests were granted, two requests were delegated to the DRP, six requests were withdrawn, and the remaining 337 requests were denied. Additionally, sua sponte Director Review was initiated in 36 cases.

Since July 24, 2023, when the interim process for Director Review was expanded to allow for requests of decisions on institution, the majority of requests received have been from decisions on institution. Specifically, between July 24, 2023, and August 1, 2024, 49 requests were received for review of final written decisions and 115 requests for review of decisions on institution.

Rulemaking Considerations

A. Administrative Procedure Act: The changes in this final rule involve rules of agency practice and procedure, and/or interpretive rules, and do not require notice-and-comment rulemaking. See *Perez* v. *Mortg. Bankers Ass'n,* 135 S.Ct. 1199, 1204 (2015) (explaining that interpretive rules ''advise the public of the agency's construction of the statutes and rules which it administers'' and do not require notice-and-comment rulemaking when issued or amended); *Cooper Techs. Co.* v. *Dudas,* 536 F.3d 1330, 1336–37 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice-and-comment rulemaking for ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice''); and *JEM Broadcasting Co.* v. *F.C.C.,* 22 F.3d 320, 328 (D.C. Cir. 1994) (explaining that rules are not legislative because they do not ''foreclose effective opportunity to make one's case on the merits'').

Nevertheless, the USPTO has chosen to seek public comment before implementing this rule to benefit from the public's input.

B. Regulatory Flexibility Act: For the reasons set forth in this final rule, the Senior Counsel for Regulatory and Legislative Affairs, Office of General Law, USPTO, has certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes set forth in this final rule would not have a significant economic impact on a substantial number of small entities. See 5 U.S.C. 605(b).

This final rule sets forth expressly the rules governing Director Review. The changes do not create additional procedures or requirements or impose any additional compliance measures on any party beyond the interim process for Director Review, nor do these changes cause any party to incur additional costs. Therefore, any requirements resulting from these changes are of minimal or no additional burden to those practicing before the Board.

For the foregoing reasons, the changes in this final rule will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993), as amended by Executive Order 14094 (April 6, 2023).

D. Executive Order 13563 (Improving Regulation and Regulatory Review): The Office has complied with Executive Order 13563 (January 18, 2011). Specifically, and as discussed above, the Office has, to the extent feasible and applicable: (1) made a reasoned determination that the benefits justify the costs of the rules; (2) tailored the rules to impose the least burden on society consistent with obtaining the regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens and maintain flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. Executive Order 13132 (Federalism): This rulemaking pertains strictly to Federal agency procedure and does not contain policies with federalism implications sufficient to warrant the preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

F. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian Tribal governments; or (3) preempt Tribal law. Therefore, a Tribal summary impact statement is not required under Executive Order 13175 (November 6, 2000).

G. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

H. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (February 5, 1996).

I. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (April 21, 1997).

J. Executive Order 12630 (Taking of Private Property): This rulemaking will not affect a taking of private property or otherwise have taking implications under Executive Order 12630 (March 15, 1988).

K. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*), the USPTO will submit a report containing the rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking are not expected to

result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking will not be a ''major rule'' as defined in 5 U.S.C. 804(2).

L. Unfunded Mandates Reform Act of 1995: The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and Tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. See 2 U.S.C. 1501 *et seq.*

M. National Environmental Policy Act of 1969: This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. See 42 U.S.C. 4321 *et seq.*

N. National Technology Transfer and Advancement Act of 1995: The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

O. Paperwork Reduction Act of 1995: The Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3549) requires that the Office consider the impact of paperwork and other information collection burdens imposed on the public. This rulemaking does not add any additional information requirements or fees for parties before the Board. Therefore, the Office is not resubmitting collection packages to OMB for its review and approval because the revisions in the final rule do not materially change the information collections approved under OMB control number 0651–0069.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

P. E-Government Act Compliance: The USPTO is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 37 CFR Part 42

Administrative practice and procedure, Inventions and patents, Lawyers.

For the reasons set forth in the preamble, the USPTO amends 37 CFR part 42 as follows:

PART 42—TRIAL PRACTICE BEFORE THE PATENT TRIAL AND APPEAL BOARD

■ 1. The authority citation for part 42 is revised to read as follows:

Authority: 35 U.S.C. 2(b)(2), 3, 6, 21, 23, 41, 134, 135, 143, 153, 311, 312, 314, 316, 318, 321–326, 328; Pub. L. 112–29, 125 Stat. 284; and Pub. L. 112–274, 126 Stat. 2456.

■ 2. Add § 42.75 to read as follows:

§ 42.75 Director review.

(a) *Director Review generally.* In a proceeding under this part, the Director may review any decision on institution under 35 U.S.C. 135, 314, or 324, any final decision under 35 U.S.C. 135, 318, or 328, any decision granting rehearing of such a decision, or any other decision concluding a proceeding brought under 35 U.S.C. 135, 311, or 321. In the course of reviewing such a decision, the Director may review any interlocutory decision rendered by the Board in reaching that decision. For purposes of this section, the term ''final decision'' is defined as a ''final decision'' under 35 U.S.C. 135 as well as a ''final written decision'' under 35 U.S.C. 318 or 328.

(b) *Sua sponte Director review.* The Director, on the Director's own initiative, may initiate sua sponte Director Review of a decision as provided in paragraph (a) of this section. Absent exceptional circumstances, any sua sponte Director Review will be initiated within 21 days after the expiration of the period for filing a request for rehearing pursuant to § 42.71(d).

(c) *Requests for Director review.* A party to a proceeding under this part may file one request for Director Review of a decision as provided in paragraph (a) of this section, instead of filing a request for rehearing of that decision pursuant to § 42.71(d), subject to the limitations herein and any further guidance provided by the Director.

(1) *Timing.* The request must be filed within the time period set forth in § 42.71(d) unless an extension is granted by the Director upon a showing of good cause. No response to a Director Review request is permitted absent Director authorization.

(2) *Format and length.* A request for Director Review must comply with the format requirements of § 42.6(a). Absent Director authorization, the request must comply with the length limitations for motions to the Board provided in § 42.24(a)(1)(v).

(3) *Content.* Absent Director authorization, a request for Director Review may not introduce new evidence.

(d) *Final agency decision.* A decision on institution, a final decision, a decision granting rehearing of such decision on institution or final decision, or any other decision concluding a proceeding brought under 35 U.S.C. 135, 311, or 321 shall become the final agency decision unless:

(1) A party requests rehearing or Director Review within the time provided by § 42.71(d) or an extension of time for a request for Director Review is granted pursuant to paragraph (c)(1) of this section; or

(2) The Director initiates sua sponte review as provided by § 42.75(b). Upon denial of a request for Director Review of a final decision, of a decision granting rehearing of a final decision, or of any other decision concluding a proceeding brought under 35 U.S.C. 135, 311, or 321, the Board's decision becomes the final agency decision.

(e) *Process*—(1) *Effect on underlying proceeding.* Unless the Director orders otherwise, and except as provided in paragraph (e)(3) of this section, a request for Director Review or the initiation of review on the Director's own initiative does not stay the time for the parties to take action in the underlying proceeding.

(2) *Grant and scope.* If the Director grants Director Review, the Director shall issue an order or decision that will be made part of the public record, subject to the limitations of any protective order entered in the proceeding or any other applicable requirements for confidentiality. If the Director grants review and does not subsequently withdraw the grant, the Director Review will conclude with the issuance of a decision or order that provides the reasons for the Director's disposition of the case.

(3) *Appeal.* A party may appeal a Director Review decision of a final decision under 35 U.S.C. 135, 318, or 328, a decision granting rehearing of a final decision under 35 U.S.C. 135, 318, or 328, or any other appealable decision concluding a proceeding brought under

35 U.S.C. 135, 311, or 321 to the United States Court of Appeals for the Federal Circuit using the same procedures for appealing other decisions under 35 U.S.C. 141(c), 141(d), 319. Director Review decisions on decisions on institution are not appealable. A request for Director Review of a final decision, a decision granting rehearing of a final decision, or any other appealable decision concluding a proceeding brought under 35 U.S.C. 135, 311, or 321, or the initiation of a review on the Director's own initiative of such a decision, will be treated as a request for rehearing under § 90.3(b)(1) of this chapter and will reset the time for appeal until after all issues on Director Review in the proceeding are resolved.

(f) *Delegation.* The Director may delegate their review of a decision provided in paragraph (a) of this section, subject to any conditions provided by the Director.

(g) *Ex parte communications.* All communications from a party to the Office concerning a specific Director Review request or proceeding must copy counsel for all parties. Communications from third parties regarding a specific Director Review request or proceeding, aside from authorized amicus briefing, are not permitted and will not be considered.

Katherine K. Vidal,

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

[FR Doc. 2024–22194 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2023–0300; FRL–11403–02–R3]

Air Plan Approval; Pennsylvania; Oil and Natural Gas Control Measures for 2008 and 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision establishes and requires reasonably available control technology (RACT) requirements for the 2008 and 2015 ozone national ambient air quality standards (NAAQS) for each category of volatile organic compound (VOC) sources in Pennsylvania covered by the EPA's 2016 Control Techniques Guidelines (CTG) for the oil and gas industry. EPA is also approving Allegheny County, Pennsylvania's SIP revision, which incorporates by reference the above Pennsylvania regulations for the 2016 CTG for oil and gas into the Allegheny County SIP with minor changes to reference Allegheny County's existing regulations. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on October 31, 2024.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2023–0300. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Michael O'Shea, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2064. Dr. O'Shea can also be reached via electronic mail at *oshea.michael@epa.gov.*

SUPPLEMENTARY INFORMATION: On December 12, 2022, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its SIP establishing RACT requirements for the 2008 and 2015 ozone NAAQS to control VOC emissions from sources covered by EPA's 2016 CTG for the oil and gas industry. On September 8, 2023, PADEP submitted, on behalf of Allegheny County Health Department (ACHD), a revision to the Allegheny County SIP (Allegheny County SIP submission/submittal) incorporating by reference (IBR) the aforementioned Pennsylvania regulations.

I. Background

On June 28, 2024 (89 FR 53932), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania and Allegheny County. In the NPRM, EPA proposed approval of Pennsylvania's SIP submittal and ACHD's SIP submittal. The formal SIP revisions were submitted by Pennsylvania on December 12, 2022 and by PADEP on behalf of ACHD on September 8, 2023.[1] The Pennsylvania submittal establishes RACT requirements for the 2008 and 2015 ozone NAAQS for each category of VOC sources in Pennsylvania covered by EPA's October 27, 2016 ''Final Control Techniques Guidelines for the Oil and Natural Gas Industry'' (EPA's 2016 Oil and Gas CTG) (81 FR 74798). The Allegheny County, Pennsylvania submittal addresses the same CTG by incorporating the Pennsylvania regulations into the Allegheny County SIP with minor changes to reference Allegheny County's existing regulations. These SIP revisions were submitted to meet the requirement in CAA section 182(b)(2)(A) and (B) that states with ozone nonattainment areas classified as Moderate or above must revise their SIPs to include provisions to implement RACT for each category of VOC sources covered by a CTG document. CAA section 184(b)(1)(B) also extends this RACT obligation to all areas of states within the Ozone Transport Region (OTR). The entire state of Pennsylvania is within the OTR (See CAA section 184(a)), and has one ozone nonattainment area classified as moderate or above.[2] A more complete discussion of the purpose and history of these SIP revisions can be found in EPA's NPRM.

II. Summary of the SIP Revisions and EPA's Analysis

Pennsylvania's and Allegheny County's SIP submissions included two separate sets of nearly identical regulations for two types of oil and natural gas sources as defined by Pennsylvania and Allegheny County: ''conventional'' oil and gas sources, and ''unconventional'' oil and gas sources. EPA's 2016 Oil and Gas CTG does not distinguish between the two types of sources. Despite being separate, both regulations (Regulation #7–544, entitled ''Control of VOC Emissions from Unconventional Oil and Natural Gas Sources,'' and Regulation #7–580, entitled ''Control of VOC Emissions from Conventional Oil and Natural Gas

[1] The PADEP and ACHD SIP submittals are located in the docket for this final rule and can be found under Docket ID Number EPA–R03–OAR–2023–0300 at *www.regulations.gov.*

[2] The Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE area is classified as Serious nonattainment for the 2015 ozone NAAQS (*See* 89 FR 61025 (July 30, 2024)).

Sources,'') [3] are nearly identical and have no technical differences.[4] ACHD is incorporating by reference the requirements of regulations 7–544 and 7–580 into Allegheny County's regulations.[5]

Regulation #7–580 amends 25 Pennsylvania Code (Pa. Code) Chapter 129 by adding provisions (sections 129.131 through 129.140) imposing RACT-level controls for VOC emissions from certain sources within ''conventional'' oil and natural gas operations, including recordkeeping and reporting requirements. Regulation #7–544 amends 25 Pa. Code Chapters 121 and 129 by adding provisions (sections 129.121 through 129.130) imposing RACT-level VOC emissions controls for certain sources in ''unconventional'' oil and natural gas operations, including recordkeeping and reporting requirements. Both sets of regulations apply to similar sources of VOC emissions, including pneumatic controllers, diaphragm pumps, compressors, fugitive emission components, and storage vessels within certain areas.

EPA reviewed Pennsylvania's and Allegheny County's SIP submissions containing regulations establishing RACT requirements for categories of sources identified in EPA's 2016 Oil and Gas CTG for both the 2008 and 2015 Ozone NAAQS, and proposed to approve these submissions as SIP revisions in our June 28, 2024 NPRM. A full discussion of EPA's rationale for approving these SIP submissions is available in the NPRM and also in the EPA's technical support document (TSD) accompanying the NPRM, which is in the docket for this action. EPA's analysis included a discussion of PADEP's economic feasibility analyses for sources covered by the CTG recommendations and of PADEP's comparison of their regulations to those adopted by other states and localities. EPA's analysis also compared requirements for testing, recordkeeping, and reporting of information in PADEP's oil and gas regulations to the 2016 Oil and Gas CTG's recommendations. Other specific requirements of the RACT SIPs and the rationale for EPA's proposed action are explained in more detail in the NPRM and the TSD. The NPRM and TSD are available in the docket for this rule at *www.regulations.gov,* Docket ID Number EPA–R03–OAR–2023–0300.

[3] The NPRM incorrectly identified Regulation #7–544 as Conventional well regulations and Regulation #7–580 as Unconventional regulations.

[4] Both final regulations can be found in the Pennsylvania Bulletin at 52 Pa. B. 7635, and 52 Pa. B. 7587 (December 10, 2022), at *www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol52/52-50/1925.html&d=reduce* (conventional) and *www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol52/52-50/1924.html&d=reduce* (unconventional).

[5] The ACHD Rules and Regulations in Article XXI, Air Pollution Controls, are amended. The SIP revision adds § 2105.87, ''Control of VOC Emissions from Unconventional and Conventional Oil and Natural Gas Industry Sources,'' to Article XXI. Section 2105.87 IBRs PADEP's final regulations, which are found at 52 Pa.B. 5287 and 52 Pa.B. 7635.

III. EPA's Response to Comments Received

EPA received two comments on the proposed rulemaking. One of the comments is not relevant to this action and will not be addressed. Our response to the relevant comment is below. Both comments are available in the docket for this action.

Comment: One commentor was supportive of the proposed revisions. They outlined the impact of air quality on daily life and the impact of reducing VOCs. Overall, the commentor supported the action.

Response: EPA thanks the commentor for this supportive comment.

IV. Final Action

EPA is approving Pennsylvania's December 12, 2022 SIP submittal and Allegheny County's September 8, 2023 SIP submittal as satisfying the CAA requirement to implement RACT for each category of VOC sources covered by EPA's 2016 Oil and Gas CTG, as required by CAA section 182(b)(1)(B) for Moderate ozone nonattainment areas, and also for any VOC sources covered by the EPA 2016 Oil and Gas CTG for states in the Ozone Transport Region, as required by CAA section 184(b)(1)(B), for both the 2008 and 2015 ozone NAAQS.

Specifically, as they appeared in the Pennsylvania Bulletin on December 10, 2022 (52 Pa. B. 7635, and 52 Pa. B. 7587), Pennsylvania added sections 129.121–130 and amended section 121.1 to support the chapter 129 amendments. Additionally, Pennsylvania added sections 129.131–129.140. Furthermore, ACHD IBRed the regulations found at the Pennsylvania Bulletin (52 Pa. B. 7635, and 52 Pa. B. 7587) published on December 10, 2022, into Article XXI of its regulations, creating a new section, § 2105.87. The SIP revision does not include the last sentence of section 2105.87a, which is noted in strikethrough in ACHD's submittal.

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Pennsylvania's amendments made to 25 Pa. Code Chapter 121 and 129 (relating to general provisions; and standards for sources), and also Allegheny County's incorporation by reference of Pennsylvania's amendments, as described in sections II and IV of this preamble. EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* and at the EPA Region III 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 rule of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[6]

VI. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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

[6] 62 FR 27968 (May 22, 1997).

Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act;

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

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

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

B. Submission to Congress and the Comptroller General

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. 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).

C. Petitions for Judicial Review

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 December 2, 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 pertaining to reasonably available control technology requirements for the 2008 and 2015 ozone NAAQS related to EPA's 2016 oil and gas control technique guidelines 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Adam Ortiz,

Regional Administrator, Region III.

For the reasons stated in the preamble, the 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 NN—Pennsylvania

■ 2. In § 52.2020:

■ a. The table in paragraph (c)(1) is amended:

■ i. Under ''Chapter 121—General Provisions'' by adding a fifth entry for ''Section 121.1'' before the entry ''Section 121.2''; and

■ ii. Under ''Chapter 129—Standards for Sources'' adding the subheading ''Control of VOC Emissions from Unconventional and Conventional Oil and Natural Gas Sources'' and the entries ''Section 129.121'' through ''Section 129.140'' immediately after the entry for ''Section 129.107''; and

■ b. The table in paragraph (c)(2) is amended under the heading ''Subpart 7—Miscellaneous VOC Sources'' by adding the entry ''2105.87'' in numerical order.

The additions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(1) * * *

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25—Environmental Protection				
Article III—Air Resources				
*	*	*	*	*
Chapter 121—General Provisions				

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	* *	*	* *	* *
Section 121.1	Definitions	12/10/2022	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Adds definition for the term ''ppm'' and amends the following definitions: ''CPMS,'' ''Fugitive emissions,'' and ''Responsible official'' to support the amendments to Chapter 129.
*	* *	*	* *	* *
Chapter 129—Standards for Sources				
*	* *	*	* *	* *
Control of VOC Emissions from Unconventional and Conventional Oil and Natural Gas Sources				
129.121	General provisions and applicability.	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.122	Definitions, acronyms, and EPA methods.	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.123	Storage vessels	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.124	Natural gas-driven continuous bleed pneumatic controllers.	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.125	Natural gas-driven diaphragm pumps.	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.126	Compressors	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.127	Fugitive emissions components.	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.128	Covers and closed vent systems.	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.129	Control devices	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.130	Recordkeeping and reporting.	12/10/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from unconventional oil and natural gas sources.
129.131	General provisions and applicability.	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
129.132	Definitions, acronyms and EPA methods.	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
129.133	Storage vessels	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
129.134	Natural gas-driven continuous bleed pneumatic controllers.	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
129.135	Natural gas-driven diaphragm pumps.	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
129.136	Compressors	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
129.137	Fugitive emissions components.	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
129.138	Covers and closed vent systems.	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
129.139	Control devices	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
129.140	Recordkeeping and reporting.	12/2/22	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Controlling VOC emissions from conventional oil and natural gas sources.
*	*	*	*	*

* * * * * (2) * * *

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Subpart 7—Miscellaneous VOC Sources				
*	*	*	*	*
2105.87	Control of VOC Emissions from Unconventional and Conventional Oil and Natural Gas Industry Sources.	2/5/23	10/1/24, [INSERT **FEDERAL REGISTER** CITATION].	Incorporates by reference the Pennsylvania Department of Environmental Protection regulations for ''unconventional'' and ''conventional'' oil and natural gas sources promulgated at 52 Pa.B. 5287 and 52 Pa.B 7635 (both published on December 10, 2022). The SIP revision does not include the last sentence of § 2105.87.a, which is noted in strikethrough.
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[FR Doc. 2024–22386 Filed 9–30–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2024–0279; FRL–12181–02–R4]

North Carolina: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of North Carolina (North Carolina) has applied to the Environmental Protection Agency (EPA) for final approval of revisions to its Underground Storage Tank Program (UST Program) under subtitle I of the Resource Conservation and Recovery Act (RCRA). Pursuant to RCRA, the EPA is taking direct final action, subject to public comment, to approve revisions to the UST Program. The EPA has reviewed North Carolina's revisions and has determined that these revisions satisfy all requirements needed for approval. In addition, this action also codifies the EPA's approval of North Carolina's revised UST Program and incorporates by reference those provisions of the State statutes and regulations that the EPA has determined meet the requirements for approval.

DATES: This rule is effective December 2, 2024, unless the EPA receives adverse comment by October 31, 2024. If the EPA receives adverse comment, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 2, 2024.

ADDRESSES: Submit your comments by one of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: giri.upendra@epa.gov.* Include the Docket ID No. EPA–R04–UST–2024–0279 in the subject line of the message.

Instructions: Submit your comments, identified by Docket ID No. EPA–R04–UST–2024–0279, via the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://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 whose disclosure 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/commenting-epa-dockets.*

The EPA encourages electronic comment submittals, but if you are unable to submit electronically or need other assistance, please contact Upendra Giri, the contact listed in the **FOR FURTHER INFORMATION CONTACT** provision below. The index to the docket for this action and all documents that form the basis of this action and associated publicly available docket materials are available electronically in *https://www.regulations.gov.* The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Upendra Giri for alternative access to docket materials.

Please also contact Upendra Giri 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 on EPA Docket

Center services please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Upendra Giri, RCRA Programs and Cleanup Branch, Land, Chemicals, and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–8185; email address: *giri.upendra@epa.gov.* Please contact Upendra Giri by phone or email for further information.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to North Carolina's Underground Storage Tank Program

A. Why are revisions to State UST programs necessary?

States that have received final approval from the EPA under section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain a UST program that is no less stringent than the Federal program. When the EPA revises the regulations that govern the UST program, States must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Most commonly, States must change their programs because of changes to the EPA's regulations in title 40 of the Code of Federal Regulations (CFR) part 280. States can also initiate changes on their own to their UST programs and these changes must then be approved by the EPA.

B. What decision has the EPA made in this rule?

In accordance with 40 CFR 281.51(a), North Carolina submitted a complete program revision application (State Application) seeking approval of changes to its UST Program. The State Application was submitted on October 22, 2018, and amended on February 22, 2023, May 4, 2023, and June 24, 2024. The program revisions described in the State Application correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 State program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter from the Governor requesting approval; a description of the UST Program and operating procedures; a demonstration of the State of North Carolina's procedures to ensure adequate enforcement; a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency; an Attorney General's Statement; and copies of all relevant North Carolina statutes and regulations. The EPA has reviewed the State Application and has determined that the revisions to North Carolina's UST Program are no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the North Carolina UST Program continues to provide adequate enforcement of compliance. Therefore, the EPA grants North Carolina final approval to operate its UST Program with the revisions described in the State Application, and as outlined below. The North Carolina Department of Environmental Quality (DEQ) (formerly the North Carolina Department of Environment and Natural Resources) is the lead implementing agency for the UST Program in North Carolina, except in Indian country as noted below in Section I.I.

C. What is the effect of this approval on the regulated community?

Section 9004(b) of RCRA, 42 U.S.C. 6991c(b), as amended, allows the EPA to approve State UST programs to operate in lieu of the Federal program. With this approval, the changes described in the State Application will become part of the approved North Carolina UST Program, and therefore will be federally enforceable. North Carolina will continue to have primary enforcement authority and responsibility for its State UST Program. This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already in effect in the State of North Carolina, and are not changed by this action. This action merely approves the existing North Carolina regulations as being no less stringent than the 2015 Federal Revisions and rendering them federally enforceable.

D. Why is the EPA using a direct final rule?

The EPA is publishing this direct final rule without a prior proposed rule because we view this as a noncontroversial action and we anticipate no adverse comment. North Carolina addressed all comments it received during its comment period when the rules and regulations being considered in this document were proposed at the State level.

E. What happens if the EPA receives comments that oppose this action?

Along with this direct final rule, the EPA is simultaneously publishing a separate document in the ''Proposed Rules'' section of this **Federal Register** that serves as the proposal to approve North Carolina's UST Program revisions and provides an opportunity for public comment. If the EPA receives comments that oppose this approval, the EPA will withdraw this direct final rule by publishing a document in the **Federal Register** before it becomes effective. The EPA will make any further decision on approval of the State Application after considering all comments received during the comment period. The EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has North Carolina previously been approved?

On January 16, 1998, North Carolina submitted a complete State program approval application seeking approval of its UST Program under subtitle I of RCRA. Effective August 14, 2001, the EPA granted final approval for North Carolina to administer its UST Program in lieu of the Federal UST program and incorporated by reference and codified the federally approved North Carolina UST Program (66 FR 32564 and 32566, June 15, 2001). As a result of the EPA's approval, these provisions became subject to the EPA's corrective action, inspection, and enforcement authorities under RCRA sections 9003(h), 9005, and 9006, 42 U.S.C. 6991b(h), 6991d, and 6991e, and other applicable statutory and regulatory provisions.

G. What changes is the EPA approving with this action and what standards do we use for review?

In order to be approved, each State program revision application must meet the general requirements in 40 CFR 281.11 (General Requirements), and the specific requirements in 40 CFR part 281, subpart B (Components of a Program Application), subpart C (Criteria for No Less Stringent), and subpart D (Adequate Enforcement of Compliance).

As more fully described below, North Carolina has made changes to its UST Program to reflect the 2015 Federal Revisions. These changes are included in North Carolina's UST Rules at North Carolina Administrative Code (N.C.A.C.), Title 15A, Chapter 2, Subchapter 2N (2023), and the North Carolina General Statutes (N.C.G.S.) sections 143–215.94NN through 143–215.94UU (2018). The EPA is approving North Carolina's changes because they are no less stringent than the Federal UST program, and because the revised North Carolina UST Program will continue to provide for adequate enforcement of compliance as required

by 40 CFR 281.11(b) and part 281, subparts C and D, after this approval.

DEQ continues to be the lead implementing agency for the UST Program in North Carolina. DEQ has broad statutory and regulatory authority to regulate the installation, operation, maintenance, and closure of USTs, as well as UST releases, under the Chapter 143 of the N.C.G.S., Article 21A, Parts 2A (Leaking Petroleum Underground Storage Tank Cleanup), 2B (Underground Storage Tank Regulation), and 2D (Training of Underground Storage Tank Operators) (2018); and Title 15A of the North Carolina Administrative Code, Chapter 2, Subchapters 2L, 2N, 2O, and 2P (2023).

The following North Carolina authorities provide authority for compliance monitoring as required pursuant to 40 CFR 281.40: N.C.G.S. sections 143–215.3(a) through (d), 143–215.79, 143–215.94T; N.C.G.S. section 143B–282; and 15A N.C.A.C. 02N .0101(b) and .0405.

The following North Carolina authorities provide authority for enforcement response as required pursuant to 40 CFR 281.41: N.C.G.S. sections 143–215.2, 143–215.3(a), 143.215.3(c), 143–215.3(f), 143–215.6A, 143–215.94F, 143–215.94J, 143–215.94K, 143–215.94U, 143–215.94V(b) through (h), 143–215.94W, 143–215.94X, 143–215.94Y, and 143–215.94TT; N.C.G.S. section 143B–282; and 15A N.C.A.C. 02N .0101(b).

The following North Carolina authorities provide authority for enabling public participation in the State enforcement process, including citizen intervention and filing of complaints, required pursuant to 40 CFR 281.42: Rule 24(a)(2) of the North Carolina Rules of Civil Procedure (2024); and N.C.G.S. sections 150B–23 and 143–215.94L. Further, through a Memorandum of Agreement between DEQ and the EPA, effective October 12, 2018, North Carolina maintains procedures for receiving and ensuring proper consideration of information about violations submitted by the public, and DEQ will not oppose citizen intervention on the ground that the applicant's interest is adequately represented by the State. The following North Carolina authorities provide authority for enabling the sharing of information in the State files obtained or used in the administration of the North Carolina UST Program with the EPA as required by 40 CFR 281.43: N.C.G.S. sections 132–1 through 132–1.14. Further, through the Memorandum of Agreement between DEQ and the EPA, effective October 12, 2018, North Carolina agrees to furnish the EPA, upon request, any information in State files obtained or used in the administration of the State UST Program.

To qualify for final approval, revisions to a State's UST program must be no less stringent than the 2015 Federal Revisions. In the 2015 Federal Revisions, the EPA addressed UST systems deferred in the 1988 UST regulations, and added, among other things: new operation and maintenance requirements; secondary containment requirements for new and replaced tanks and piping; operator training requirements; and a requirement to ensure UST system compatibility before storing certain biofuel blends. In addition, the EPA removed past deferrals for emergency generator tanks, field constructed tanks, and airport hydrant systems. North Carolina adopted all of the required 2015 Federal Revisions in Title 15A of the North Carolina Administrative Code, Chapter 2, Subchapter 2N (2023), and N.C.G.S. sections 143–215.94NN through 143–215.94UU (2018).

As part of the State Application, the North Carolina Attorney General has certified that the State regulations provide for adequate enforcement of compliance and meet the no less stringent criteria in 40 CFR part 281, subparts C and D. The EPA is relying on this certification, in addition to the analysis submitted by the State, in approving the State's changes.

H. Where are the revised State rules different from the Federal rules?

States may enact laws that are more stringent than their Federal counterparts. *See* RCRA section 9008, 42 U.S.C. 6991g. When an approved State program includes requirements that are considered more stringent than those required by Federal law, the more stringent requirements become part of the federally approved program in accordance with 40 CFR 281.12(a)(3)(i). The EPA has determined that some of North Carolina's regulations are considered more stringent than the Federal program, and upon approval, they will become part of the federally approved North Carolina UST Program and therefore federally enforceable.

In addition, States may enact laws which are broader in scope than their Federal counterparts in accordance with 40 CFR 281.12(a)(3)(ii). State requirements that go beyond the scope of the Federal program are not part of the federally approved program and the EPA cannot enforce them. Although these requirements are enforceable by the State in accordance with North Carolina law, they are not Federal RCRA requirements. The EPA considers the following North Carolina requirements to be broader in scope than the Federal program and therefore not part of the federally approved State UST Program:

Statutory Broader in Scope Provisions

General Statutes of North Carolina, Chapter 143; Article 21, Part 1. Organization and Powers Generally; Control of Pollution (2018).

(i) N.C.G.S. section 143–215.3(e), insofar as it provides for the granting of variances which are not available to UST owners and operators as these terms are defined in 40 CFR 280.12.

General Statutes of North Carolina, Chapter 143; Article 21A, Part 2A. Leaking Petroleum UST Tank Cleanup (2018).

(ii) N.C.G.S. section 143–215.94A(2)c., as to the definition of ''Commercial underground storage tank,'' insofar as it includes certain heating oil tanks and connected piping that are excluded by the Federal program.

(iii) N.C.G.S. section 143–215.94B, insofar as it provides for the creation of the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund (State Fund) and criteria for the expenditure of funds.

(iv) N.C.G.S. section 143–215.94C, insofar as it requires owners and operators to pay an annual operating fee to the State Fund.

(v) N.C.G.S. sections 143–215.94E(b) through (k), insofar as these provisions relate to the State Fund.

(vi) N.C.G.S. section 143–215.94G, insofar as it provides for DEQ to perform cleanups and provides for reimbursement from the State Fund.

(vii) N.C.G.S. section 143–215.94N, insofar as it relates to the State Fund.

(viii) N.C.G.S. section 143–215.94P, insofar as it provides for the creation of the Groundwater Protection Loan Fund and promulgation of regulations regarding such fund.

General Statutes of North Carolina, Chapter 143; Article 21A, Part 2D. Training of UST Operators (2018).

(ix) N.C.G.S. section 143–215.94OO(4), as to the definition of ''Underground storage tank system'' or ''tank system,'' insofar as it includes dispensers as part of the system.

General Statutes of North Carolina, Chapter 143B; Article 7, Part 1. General Provisions (2018).

(x) N.C.G.S. section 143B–279.9, insofar as it regulates releases from sources that are not underground storage tanks and entities that are not owners and operators as these terms are defined in 40 CFR 280.12.

(xi) N.C.G.S. section 143B–279.11, insofar as it regulates releases from

sources that are not underground storage tanks and entities that are not owners and operators as these terms are defined in 40 CFR 280.12.

Regulatory Broader in Scope Provisions

North Carolina Administrative Code, Title 15A—Environmental Quality; Chapter 2, Environmental Management; Subchapter 2L, Groundwater Classification and Standards (2023).

(i) 15A N.C.A.C. 02L .0100, including .0101 through .0115, insofar as these provisions provide general considerations for groundwater classification and standards.

(ii) 15A N.C.A.C. 02L .0200, including .0201 through .0202, insofar as these provisions establish underground water classifications and quality standards.

(iii) 15A N.C.A.C. 02L .0300, including .0301 through .0319, insofar as these provisions assign underground water classifications.

(iv) 15A N.C.A.C. 02L .0403, insofar as it defines a ''responsible party'' to include persons other than owners and operators as these terms are defined in 40 CFR 280.12.

(v) 15A N.C.A.C. 02L .0415, insofar as it regulates releases from sources other than underground storage tank systems.

(vi) 15A N.C.A.C. 02L .0500, including .0501 through .0515, insofar these provisions regulate aboveground storage tanks and sources.

North Carolina Administrative Code, Title 15A—Environmental Quality; Chapter 2, Environmental Management; Subchapter 2N, Underground Storage Tanks (2023).

(vii) 15A N.C.A.C. 02N .0201(1), insofar as it regulates underground storage tanks containing de minimis concentrations of regulated substances.

(viii) 15A N.C.A.C. 02N .0203(a)(1), as to the definition of ''UST system'' or ''Tank system,'' insofar as it includes dispensers as part of the system.

(ix) 15A N.C.A.C. 02N .0504(c), insofar as it relates to the permitting of monitoring wells.

(x) 15A N.C.A.C. 02N .0802, insofar as it regulates underground storage tanks containing de minimis amounts of regulated substances.

(xi) 15A N.C.A.C. 02N .0901(d), insofar as it requires dispensers to have more than under-dispenser containment.

North Carolina Administrative Code, Title 15A—Environmental Quality; Chapter 2, Environmental Management; Subchapter 2P, Leaking Petroleum Underground Storage Tank Cleanup Funds (2023).

(xii) 15A N.C.A.C. 02P, including .0101 through .0408, except .0302, insofar as these provisions relate to the State Fund and the collection of annual operating fees.

I. How does this action affect Indian country (18 U.S.C. 1151) in North Carolina?

The EPA's approval of North Carolina's UST Program does not extend to Indian country as defined in 18 U.S.C. 1151. The EPA will retain responsibility under RCRA for underground storage tanks in Indian country. Therefore, this action has no effect in Indian country. *See* 40 CFR 281.12(a)(2).

II. Codification

A. What is codification?

Codification is the process of placing citations and references to a State's statutes and regulations that comprise a State's approved UST program into the CFR. The EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference State statutes and regulations that the EPA can enforce, after the approval is final, under sections 9005 and 9006 of RCRA, and any other applicable statutory provisions. The incorporation by reference of EPA-approved State programs in the CFR should substantially enhance the public's ability to discern the status of the approved State UST programs and State requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each State.

B. What is the history of codification of North Carolina's UST Program?

In 2001, the EPA incorporated by reference and codified North Carolina's approved UST Program at 40 CFR 282.83 (66 FR 32566, June 15, 2001). Through this action, the EPA is amending 40 CFR 282.83 to incorporate by reference and codify North Carolina's revised UST Program.

C. What codification decisions is the EPA making in this rule?

In this rule, the EPA is finalizing regulatory text that incorporates by reference the federally approved North Carolina UST Program, including the revisions made to the UST Program based on the 2015 Federal Revisions. In accordance with the requirements of 1 CFR 51.5, the EPA is incorporating by reference North Carolina's statutes and regulations as described in the amendments to 40 CFR part 282 set forth below. These documents are available through *https://www.regulations.gov.* This codification reflects the State UST Program that will be in effect at the time the EPA's approval of the revisions to the North Carolina UST Program addressed in this direct final rule becomes final. If, however, the EPA receives substantive comment on the proposed rule, the EPA will withdraw this direct final rule and this codification will not take effect. The EPA will consider all comments and will make a decision on program approval and codification in a future final rule. By codifying the approved North Carolina UST Program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the North Carolina UST Program.

Specifically, in 40 CFR 282.83(d)(1)(i), the EPA is incorporating by reference the EPA-approved North Carolina UST Program. Section 282.83(d)(1)(ii) identifies the State's statutes and regulations that are part of the approved North Carolina UST Program, although not incorporated by reference for enforcement purposes, unless they impose obligations on the regulated entity. Section 282.83(d)(1)(iii) identifies the State's statutory and regulatory provisions that are broader in scope or external to the State's approved UST Program and therefore not incorporated by reference. Sections 282.83(d)(2) through (5) reference the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, Program Description, and Memorandum of Agreement, which are part of the State Application and part of the North Carolina UST Program under subtitle I of RCRA.

D. What is the effect of the EPA's codification of the federally approved North Carolina UST Program on enforcement?

The EPA retains the authority under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, and other applicable statutory and regulatory provisions, to undertake corrective action, inspections, and enforcement actions, and to issue orders in approved States. If the EPA determines it will take such actions in North Carolina, the EPA will rely on Federal sanctions, Federal inspection authorities, and other Federal procedures rather than the North Carolina analogs. Therefore, the EPA is not incorporating by reference North Carolina's procedural and enforcement authorities, although they are listed in 40 CFR 282.83(d)(1)(ii).

E. What State provisions are not part of the codification?

As discussed in section I.H. above, some provisions of North Carolina's

UST Program are not part of the federally approved State UST Program because they are broader in scope than the Federal UST Program. Where an approved State program has provisions that are broader in scope than the Federal program, those provisions are not a part of the federally approved program. As a result, North Carolina provisions which are broader in scope than the Federal program are not incorporated by reference for purposes of enforcement in part 282. *See* 40 CFR 281.12(a)(3)(ii). In addition, provisions that are external to the State UST program approval requirements, but included in the North Carolina's State Application, are also being excluded from incorporation by reference in part 282. For reference and clarity, 40 CFR 282.83(d)(1)(iii) lists the North Carolina statutory and regulatory provisions which are broader in scope than the Federal program or external to State UST program approval requirements. These provisions are, therefore, not part of the approved UST Program that the EPA is codifying. Although these provisions cannot be enforced by the EPA, the State will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order (E.O.) Reviews

The EPA's actions merely approve and codify North Carolina's revised UST Program requirements pursuant to RCRA section 9004, and do not impose additional requirements other than those imposed by State law. For that reason, these actions:

- Are not significant regulatory actions 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);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to the 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 RCRA;
- Do not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994) and Executive Order 14096 (88 FR 25251, April 26, 2023).
- Do not apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. The rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on Tribal governments or preempt Tribal law.

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. The 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). This final action will be effective December 2, 2024.

List of Subjects in 40 CFR Parts 281 and 282

Environmental protection, Administrative practice and procedure, Hazardous substances, Incorporation by reference, Indian country, Petroleum, Reporting and recordkeeping requirements, State program approval, Underground storage tanks.

Authority: This action is issued under the authority of sections 2002(a), 7004(b), 9004, 9005, and 9006 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6974(b), 6991c, 6991d, and 6991e.

Dated: September 25, 2024.

Jeaneanne Gettle,

Acting Regional Administrator, Region 4.

For the reasons set forth in the preamble, the EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Revise § 282.83 to read as follows:

§ 282.83 North Carolina State-Administered Program.

(a) *History of the approval of North Carolina's program.* The State of North Carolina (State) is approved to administer and enforce an underground storage tank (UST) program in lieu of the Federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's Underground Storage Tank Program (UST Program), as administered by the North Carolina Department of Environmental Quality (DEQ), was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the North Carolina UST Program on June 15, 2001, and it was effective on August 14, 2001. A subsequent program revision was approved by EPA and became effective December 2, 2024.

(b) *Enforcement authority.* North Carolina has primary responsibility for administering and enforcing its federally approved UST Program. However, EPA retains the authority to exercise its corrective action, inspection, and enforcement authorities under sections 9003(h), 9005, and 9006 of subtitle I of RCRA, 42 U.S.C. 6991b(h), 6991d, and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) *Retention of program approval.* To retain program approval, North Carolina must revise its approved UST Program to adopt new changes to the Federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If North Carolina obtains approval for revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) *Final approval.* North Carolina has final approval for the following elements of its UST Program submitted to EPA and approved effective August 14, 2001, and the program revisions approved by EPA effective on December 2, 2024.

(1) *State statutes and regulations—*

(i) *Incorporation by reference.*

The North Carolina materials cited in this paragraph (d)(1)(i), and listed in appendix A to this part, are incorporated by reference as part of the UST Program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) You may obtain copies of the North Carolina statutes and regulations that are incorporated by reference in this paragraph (d)(1)(i) from the North Carolina Department of Environmental Quality, 217 West Jones Street, Raleigh, North Carolina 27603 (physical address); 1646 Mail Service Center, Raleigh, North Carolina 27699–1646 (mailing address); Phone number: (919) 707–8200; website: *https://www.deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/underground-storage-tanks-rules.*

(A) ''North Carolina Statutory Requirements Applicable to the Underground Storage Tank Program,'' dated August 15, 2024.

(B) ''North Carolina Regulatory Requirements Applicable to the Underground Storage Tank Program,'' dated August 15, 2024.

(ii) *Legal basis.* EPA considered the following statutes and regulations which provide the legal basis for the State's implementation of the UST Program, but do not replace Federal authorities. Further, these provisions are not being incorporated by reference, unless the provisions place requirements on regulated entities.

(A) *General Statutes of North Carolina, Chapter 132—Public Records (2018).*

Sections 132–1 through132–1.14, insofar as these provisions provide for information sharing with EPA and the State's Public Records laws.

(B) *General Statutes of North Carolina, Chapter 143; Article 21, Part 1. Organization and Powers Generally; Control of Pollution (2018).*

(1) Section 143–215.2, insofar as it provides for enforcement response, issuance of orders, injunctive relief, public notice and review of orders, proceedings before the North Carolina Environmental Management Commission (Commission), and procedures to contest orders.

(2) Section 143–215.3(a), insofar as it provides additional general authorities to the Commission pertaining to the State UST Program.

(3) Section 143–215.3(b), insofar as it provides for compliance monitoring and establishes authority to conduct research, investigations, and requires cooperation from other State departments.

(4) Section 143–215.3(c), insofar as it provides authority to participate in Federal programs.

(5) Section 143–215.3(d), insofar as it establishes procedures for consulting with other States on regulations.

(6) Section 143–215.3(f), insofar as it provides enforcement response and establishes authorities for groundwater corrective action.

(7) Section 143–215.6A, insofar as it provides for enforcement response, assessment of penalties, and procedures for contesting penalties.

(C) *General Statutes of North Carolina, Chapter 143; Article 21A, Part 1. General Provisions (2018).*

Section 143–215.79, insofar as it provides for compliance monitoring and establishes authority for inspections and the right to enter property to conduct inspections.

(D) *General Statutes of North Carolina, Chapter 143; Article 21A, Part 2A. Leaking Petroleum UST Tank Cleanup (2018).*

(1) Section 143–215.94F, insofar as it provides for enforcement response and establishes a limitation of liability.

(2) Section 143–215.94J, insofar as it provides for enforcement response and establishes a limitation of liability for the State.

(3) Section 143–215.94K, insofar as it provides for enforcement response, civil penalties, criminal penalties, and injunctive relief.

(4) Section 143–215.94L, insofar as it establishes authority to adopt regulations necessary to implement the State UST Program.

(E) *General Statutes of North Carolina, Chapter 143; Article 21A, Part 2B. UST Regulation (2018).*

(1) Section 143–215.94T, insofar as it provides for compliance monitoring, and the promulgation of regulations for the implementation of the State UST Program.

(2) Section 143–215.94U, insofar as it provides for delivery prohibition and enforcement of the State UST Program.

(3) Section 143–215.94V(b) through (h), insofar as these provisions provide for enforcement response and establish authorities for corrective action.

(4) Section 143–215.94W, insofar as it provides for enforcement response and civil penalties.

(5) Section 143–215.94X, insofar as it provides for enforcement response and criminal penalties.

(6) Section 143–215.94Y, insofar as it provides for enforcement response and injunctive relief.

(F) *General Statutes of North Carolina, Chapter 143; Article 21A, Part 2D. Training of UST Operators (2018).*

Section 143–215.94TT, insofar as it provides for enforcement response, civil penalties, criminal penalties, and injunctive relief.

(G) *General Statutes of North Carolina, Chapter 143B; Article 7, Part 4. Environmental Management Commission (2018).*

Section 143B–282, insofar as it creates the Environmental Management Commission and provides the Commission with the powers and duty to promulgate rules pertaining to the State UST Program.

(H) *General Statutes of North Carolina, Chapter 150B—Administrative Procedure Act (2024).*

Section 150B–23, insofar as it provides for public intervention and procedures for administrative hearings.

(I) *North Carolina Administrative Code, Title 15A, Chapter 2, Subchapter 2N (2023).*

(1) 15A N.C.A.C. 02N .0101(b), insofar as it provides authority to administer the State UST Program.

(2) 15A N.C.A.C. 02N .0405, insofar as it provides for compliance monitoring and establishes authority to conduct inspections, tests, and obtain information from owners.

(J) *Rule 24(a)(2) of the North Carolina Rules of Civil Procedure (2024),* insofar as it provides for citizen intervention and public participation in the State enforcement process.

(iii) *Other provisions not incorporated by reference.* The following statutory and regulatory provisions applicable to the North Carolina UST Program are broader in scope than the Federal program or external to the State UST program approval requirements. Therefore, these provisions are not part of the approved UST Program and are not incorporated by reference in this section:

(A) *General Statutes of North Carolina, Chapter 143; Article 21, Part 1. Organization and Powers Generally; Control of Pollution (2018).*

Section 143–215.3(e) is broader in scope insofar as it provides for the granting of variances which are not available to UST owners and operators as these terms are defined in 40 CFR 280.12.

(B) *General Statutes of North Carolina, Chapter 143; Article 21A, Part*

2A. Leaking Petroleum UST Tank Cleanup (2018).

(1) Section 143–215.94A(2)c. is broader in scope as to the definition of ''Commercial underground storage tank,'' insofar as it includes certain heating oil tanks and connected piping that are excluded by the Federal program.

(2) Section 143–215.94B is broader in scope insofar as it provides for the creation of the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund (State Fund) and criteria for the expenditure of funds.

(3) Section 143–215.94C is broader in scope insofar as it requires owners and operators to pay an annual operating fee to the State Fund.

(4) Sections 143–215.94E(b) through (k) are broader in scope insofar as these provisions relate to the State Fund.

(5) Section 143–215.94G is broader in scope insofar as it provides for DEQ to perform cleanups and provides for reimbursement from the State Fund.

(6) Section 143–215.94M is external insofar as it contains reporting obligations on the State agency, not a regulated entity.

(7) Section 143–215.94N is broader in scope insofar as it relates to the State Fund.

(8) Section 143–215.94P is broader in scope insofar as it provides for the creation of the Groundwater Protection Loan Fund and promulgation of regulations regarding such fund.

(C) *General Statutes of North Carolina, Chapter 143; Article 21A; Part 2B. UST Regulation (2018).*

Section 143–215.94V(a) is external insofar as it pertains to legislative findings and intent.

(D) *General Statutes of North Carolina, Chapter 143; Article 21A, Part 2D. Training of UST Operators (2018).*

Section 143–215.94OO(4) is broader in scope as to the definition of ''Underground storage tank system'' or ''tank system,'' insofar as it includes dispensers as part of the system.

(E) *General Statutes of North Carolina, Chapter 143B; Article 7, Part 4. Environmental Management Commission (2018).*

(1) Section 143B–279.9 is broader in scope insofar as it regulates releases from sources that are not underground storage tanks and entities that are not owners and operators as these terms are defined in 40 CFR 280.12.

(2) Section 143B–279.11 is broader in scope insofar as it regulates releases from sources that are not underground storage tanks and entities that are not owners and operators as these terms are defined in 40 CFR 280.12.

(F) *North Carolina Administrative Code, Title 15A—Environmental Quality; Chapter 2, Environmental Management; Subchapter 2L, Groundwater Classification and Standards (2023).*

(1) 15A N.C.A.C. 02L .0100, including .0101 through .0115, is broader in scope insofar as it provides general considerations for groundwater classification and standards.

(2) 15A N.C.A.C. 02L .0200, including .0201 through .0202, is broader in scope insofar as it establishes underground water classifications and quality standards.

(3) 15A N.C.A.C. 02L .0300, including .0310 through .0319, is broader in scope insofar as it assigns underground water classifications.

(4) 15A N.C.A.C. 02L .0403 is broader in scope insofar as it defines a ''responsible party'' to include persons other than owners and operators as these terms are defined in 40 CFR 280.12.

(5) 15A N.C.A.C 02L .0410 is external insofar as it contains reporting obligations on the State agency, not a regulated entity.

(6) 15A N.C.A.C. 02L .0414 is external insofar as it regulates entities other than owners or operators as these terms are defined in 40 CFR 280.12.

(7) 15A N.C.A.C. 02L .0415 is broader in scope insofar as it regulates releases from sources other than underground storage tank systems.

(8) 15A N.C.A.C. 02L .0500, including .0501 through .0515, is broader in scope insofar as it regulates aboveground storage tanks and sources.

(G) *North Carolina Administrative Code, Title 15A—Environmental Quality; Chapter 2, Environmental Management; Subchapter 2N, Underground Storage Tanks (2023).*

(1) 15A N.C.A.C. 02N .0201(1) is broader in scope insofar as it regulates underground storage tanks containing de minimis concentrations of regulated substances.

(2) 15A N.C.A.C. 02N .0203(a)(1) is broader in scope as to the definition of ''UST system'' or ''Tank system,'' insofar as they include dispensers as part of the system.

(3) 15A N.C.A.C. 02N .0504(c) is broader in scope insofar as it relates to the permitting of monitoring wells.

(4) 15A N.C.A.C. 02N .0802 is broader in scope insofar as it regulates underground storage tanks containing de minimis amounts of regulated substances.

(5) 15A N.C.A.C. 02N .0901(d) is broader in scope insofar as it requires dispensers to have more than under-dispenser containment.

(6) Note to paragraph (e) of Section 15A N.C.A.C. 02N .0901 is external insofar as it regulates entities other than owners or operators as these terms are defined in 40 CFR 280.12.

(H) *North Carolina Administrative Code, Title 15A—Environmental Quality; Chapter 2, Environmental Management; Subchapter 2P, Leaking Petroleum Underground Storage Tank Cleanup Funds (2023).*

15A N.C.A.C. 02P, including .0101 through .0408, except .0302, insofar as these provisions relate to the State Fund and the collection of annual operating fees.

(2) *Statement of legal authority.* The Attorney General's Statement, signed by independent legal counsel for the State on behalf of the North Carolina Attorney General on October 11, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Adequate Enforcement Procedures'' submitted in the application dated October 22, 2018, as amended on February 22, 2023, May 4, 2023, and June 24, 2024, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description submitted in the application dated October 22, 2018, as amended on February 22, 2023, May 4, 2023, and June 24, 2024, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the DEQ, signed by the EPA Regional Administrator on October 12, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 3. Amend appendix A to part 282 by revising the entry for North Carolina to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

North Carolina

(a) The statutory provisions include: *General Statutes of North Carolina, Chapter 143; Article 21A, Part 2A. Leaking Petroleum UST Tank Cleanup (2018):*

143–215.94A Definitions, except ''by four or fewer households'' in (2)(c).

143–215.94E Rights and obligations of the owner or operator, except (b) through (k).
143–215.94H Financial responsibility.
143–215.94I Insurance pools authorized; requirements.

General Statutes of North Carolina, Chapter 143; Article 21A, Part 2D. Training of UST Operators (2018):

143–215.94NN Applicability.
143–215.94OO Definitions, except ''dispenser'' in (4).
143–215.94PP Designation of operators to be trained.
143–215.94QQ Training requirements for primary operators.
143–215.94RR Training requirements for emergency response operators.
143–215.94SS Tank systems for emergency power generators.
143–215.94UU Effect on other laws.

General Statutes of North Carolina, Chapter 143B; Article 7, Part 1. General Provisions (2018):

143B–279.9 Land-use restrictions may be imposed to reduce danger to public health at contaminated sites, except for ''Except with respect to land contaminated from a discharge or release of petroleum from an underground storage tank, the imposition of restrictions on the current or future use of real property on sites contaminated by the discharge or release of petroleum from an aboveground storage tank, or another petroleum source, from which contamination has migrated to off-site properties, as that term is defined under G.S. 130A–310.65(3a), shall only be allowed as provided in G.S. 143–215.104AA or G.S. 130A–310.73A, as applicable'' in (b).
143B–279.11 Recordation of residual petroleum from underground or above ground storage tanks or other sources, except ''or from an aboveground storage tank or other petroleum source pursuant to Part 7 of Article 21A of Chapter 143 of the General Statutes'' in (a); ''aboveground storage tank, or other petroleum source'' in (b) and (d); (e); and (h).

(b) The regulatory provisions include:

North Carolina Administrative Code, Title 15A-Environmental Quality; Chapter 2, Environmental Management; Subchapter 2L, Groundwater Classification and Standards (2023):

15A N.C.A.C. 02L .0401 Purpose.
15A N.C.A.C. 02L .0402 Definitions.
15A N.C.A.C. 02L .0403 Rule Application, except ''a landowner seeking reimbursement from the Commercial Leaking Underground Storage Tank Fund or the Noncommercial Leaking Underground Storage Tank Fund under G.S. 143–215.94E, and any other person responsible for the assessment or cleanup of a discharge or release from an underground storage tank, including any person who has conducted or controlled an activity that results in the discharge or release of petroleum or petroleum products as defined in G.S. 143–215.94A(10) to the groundwaters of the State or in proximity thereto.''
15A N.C.A.C. 02L .0404 Required initial abatement actions by responsible party.
15A N.C.A.C. 02L .0405 Requirements for limited site assessment.
15A N.C.A.C. 02L .0406 Discharge or release classifications.
15A N.C.A.C. 02L .0407 Reclassification of risk levels.
15A N.C.A.C. 02L .0408 Assessment and remediation procedures.
15A N.C.A.C. 02L .0409 Notification requirements.
15A N.C.A.C. 02L .0411 Establishing maximum soil contamination concentrations.
15A N.C.A.C. 02L .0412 Analytical procedures for soil samples.
15A N.C.A.C. 02L .0413 Analytical procedures for groundwater samples.

North Carolina Administrative Code, Title 15A-Environmental Quality; Chapter 2, Environmental Management; Subchapter 2N, Underground Storage Tanks (2023):

15A N.C.A.C. 02N .0101 General, except for (b).
15A N.C.A.C. 02N .0102 Copies of referenced federal regulations.
15A N.C.A.C. 02N .0104 Identification of tanks.
15A N.C.A.C. 02N .0201 Applicability, except (1).
15A N.C.A.C. 02N .0202 Installation requirements for partially excluded UST systems.
15A N.C.A.C. 02N .0203 Definitions, except ''dispenser'' in (a)(1).
15A N.C.A.C. 02N .0301 Performance standards for UST system installations or replacements completed after December 22, 1988 and before November 1, 2007.
15A N.C.A.C. 02N .0302 Upgrading of existing UST systems after December 22, 1998 and before November 1, 2007.
15A N.C.A.C. 02N .0303 Notification requirements.
15A N.C.A.C. 02N .0304 Implementation schedule for performance standards for new UST systems and upgrading requirements for existing UST systems located in areas defined in Rule .0301(D).
15A N.C.A.C. 02N .0401 Spill and overfill control.
15A N.C.A.C. 02N .0402 Operation and maintenance of corrosion protection.
15A N.C.A.C. 02N .0403 Compatibility.
15A N.C.A.C. 02N .0404 Repairs allowed.
15A N.C.A.C. 02N .0405 Reporting and recordkeeping.
15A N.C.A.C. 02N .0406 Periodic testing of spill prevention equipment and containment sumps used for interstitial monitoring of piping and periodic inspection of overfill prevention equipment.
15A N.C.A.C. 02N .0407 Periodic operation and maintenance walkthrough inspections.
15A N.C.A.C. 02N .0501 General Requirements for all UST systems.
15A N.C.A.C. 02N .0502 Requirements for petroleum UST systems.
15A N.C.A.C. 02N .0503 Requirements for hazardous substance UST systems.
15A N.C.A.C. 02N .0504 Methods of release detection for tanks, except (c).
15A N.C.A.C. 02N .0505 Methods of release detection for piping.
15A N.C.A.C. 02N .0506 Release detection recordkeeping.
15A N.C.A.C. 02N .0601 Reporting of suspected releases.
15A N.C.A.C. 02N .0602 Investigation due to off-site impacts.
15A N.C.A.C. 02N .0603 Release investigation and confirmation steps.
15A N.C.A.C. 02N .0604 Reporting and cleanup of spills and overfills.
15A N.C.A.C. 02N .0701 General.
15A N.C.A.C. 02N .0702 Initial response.
15A N.C.A.C. 02N .0703 Initial abatement measures and site check.
15A N.C.A.C. 02N .0704 Initial site characterization.
15A N.C.A.C. 02N .0705 Free product removal.
15A N.C.A.C. 02N .0706 Investigations for soil and groundwater cleanup.
15A N.C.A.C. 02N .0707 Corrective action plan.
15A N.C.A.C. 02N .0708 Public participation.
15A N.C.A.C. 02N .0801 Temporary closure.
15A N.C.A.C. 02N .0802 Permanent closure and change-in-service, except for ''except that an UST system containing de minimis concentrations of a regulated substance shall meet the closure requirements of this Rule within 12 months of January 1, 1991.''
15A N.C.A.C. 02N .0803 Assessing the site at closure or change-in-service.
15A N.C.A.C. 02N .0804 Applicability to previously closed UST Systems.
15A N.C.A.C. 02N .0805 Closure records.
15A N.C.A.C. 02N .0901 General requirements, except ''dispensers'' in (d); and Note to Paragraph (e).
15A N.C.A.C. 02N .0902 Notification.
15A N.C.A.C. 02N .0903 Tanks.
15A N.C.A.C. 02N .0904 Piping.
15A N.C.A.C. 02N .0905 Containment sumps.
15A N.C.A.C. 02N .0906 Spill buckets.
15A N.C.A.C. 02N .0907 National codes of practice and industry standards.
15A N.C.A.C. 02N .1001 Definitions.
15A N.C.A.C. 02N .1002 General requirements.
15A N.C.A.C. 02N .1003 Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport hydrant systems.

North Carolina Administrative Code, Title 15A-Environmental Quality; Chapter 2, Environmental Management; Subchapter 2O, Financial Responsibility Requirements for Owners and Operators of Underground Storage Tanks (2023):

15A N.C.A.C. 02O .0101 General.
15A N.C.A.C. 02O .0102 Financial responsibility.
15A N.C.A.C. 02O .0203 Definitions.
15A N.C.A.C. 02O .0204 Amount and scope of required financial responsibility.
15A N.C.A.C. 02O .0302 Self insurance.
15A N.C.A.C. 02O .0304 Insurance and risk retention group coverage.
15A N.C.A.C. 02O .0308 Insurance pools.
15A N.C.A.C. 02O .0402 Record keeping.
15A N.C.A.C. 02O .0503 Incapacity of owner or operator or provider of assurance.
15A N.C.A.C. 02O .0504 Replenishment.

North Carolina Administrative Code, Title 15A-Environmental Quality; Chapter 2, Environmental Management; Subchapter 2P, Leaking Petroleum Underground Storage Tank Cleanup Funds (2023):

15A N.C.A.C. 02P .0302 Notification.

(c) Copies of the North Carolina statutes and regulations that are incorporated by

reference are available from the North Carolina Department of Environmental Quality, 217 West Jones Street, Raleigh, North Carolina, 27603 (physical address); 1646 Mail Service Center, Raleigh, North Carolina 27699–1646 (mailing address); Phone number: (919) 707–8200; *website: https://www.deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/underground-storage-tanks-rules.*

[FR Doc. 2024–22541 Filed 9–30–24; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 418

[CMS–1810–CN]

RIN 0938–AV29

Medicare Program; FY 2025 Hospice Wage Index and Payment Rate Update, Hospice Conditions of Participation Updates, and Hospice Quality Reporting Program Requirements; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule; correction.

SUMMARY: This document corrects technical and typographical errors in the final rule that appeared in the August 6, 2024 **Federal Register** titled ''Medicare Program; FY 2025 Hospice Wage Index and Payment Rate Update, Hospice Conditions of Participation Updates, and Hospice Quality Reporting Program Requirements''.

DATES: This correction is effective on October 1, 2024.

FOR FURTHER INFORMATION CONTACT:

For questions regarding the hospice wage index, contact Chantelle Caldwell, (410) 786–8743.

For general questions about hospice payment policy, contact the hospice mailbox at: *hospicepolicy@cms.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2024–16910 of August 6, 2024 (89 FR 64202), there were a number of technical and typographical errors that are identified and corrected in this correcting document. The provisions in this correction document are effective as if they had been included in the final rule that appeared in the August 6, 2024 **Federal Register**. Accordingly, the corrections are effective October 1, 2024.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 64207, we made a typographical error in the reported core-based statistical area (CBSA) name and wage index value for CBSA 25980, Hinesville, Georgia. We reported the CBSA name as Hinesville-Fort Stewart, Georgia instead of Hinesville, Georgia, and the FY 2025 hospice wage index value as 0.8872, instead of 0.8886.

On page 64210, in Table 3, titled ''Urban Counties that Would Change to Rural Status'', we inadvertently omitted FIPS county 09015 Windham County from the list of counties that were previously urban but would gain rural status beginning in FY 2025. Table 3 contains the FIPS codes, county name, current CBSA number and name of the counties that will gain rural status in FY 2025. Windham County was previously designated in CBSA 49340 Worchester, MA–CT. However, beginning in FY 2025 this county is redesignated into rural Connecticut (rural area 99907). Accordingly, we are adding FIPS 09015 Windham County to the list of counties that will gain rural status beginning in FY 2025. We also reported a total of 53 counties and county equivalents that are currently considered urban that would be considered rural beginning in FY 2025. Therefore, with the addition of Windham County to the list, we are correcting that number to 54 counties and county equivalents.

Windham County is also experiencing a change to its county name beginning in FY 2025, as described in the FY 2025 hospice final rule (89 FR 64209) and will transition from FIPS county 09015 Windham County to 09150 Northeastern Connecticut planning region.

On page 64222, in Table 8, titled ''Counties That Will Use a Wage Index Transition Code'', we inadvertently omitted FIPS county 09150 ''Northeastern Connecticut Planning Region'' from the list of counties that will use a transition code on hospice claims for FY 2025 instead of the CBSA number. Table 8 contains the FIPS codes, county name, current CBSA number and name, the redesignated FY 2025 CBSA number and name and the corresponding ''500XX'' transition code that must be submitted on hospice claims for FY 2025 to ensure that hospice providers who provide services in certain counties receive that county's appropriate wage index value. The omission of the Northeastern planning region from Table 8 and the subsequent unassigned transition code for that region resulted in two wage index values being assigned to statewide rural area 99907 in the FY 2025 hospice final wage index file located at: *https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index.* However, for hospice claims processing, each CBSA or statewide rural area can have only one wage index value assigned to that CBSA or statewide rural area. Therefore, hospices that serve beneficiaries in the Northeastern Connecticut planning region must use transition code 50030, instead of the rural statewide code 99907, on hospice claims beginning in FY 2025. Accordingly, we are adding FIPS county 09150 ''Northeastern Connecticut Planning Region'' to the list of counties in Table 8 that will use a transition code on hospice claims for FY 2025 instead of the CBSA number.

This correction does not represent a change in policy and is consistent with the finalized transition policy outlined in the FY 2025 Hospice final rule (89 FR 64220–64224), where beginning in FY 2025, certain counties must use a 500XX transition code on hospice claims instead of the statewide rural area or CBSA code in circumstances where a county was redesignated into a new CBSA or rural area and has a different wage index than the constituent counties that make up that CBSA or rural area due to the calculation of the 5-percent cap.

On page 64239, we made a typographical error. We inadvertently included the word ''Proposed'' in the title of Section III.D.2, which therefore incorrectly read: ''Implementation of Two Process Quality Measures Based on Proposed HOPE Data Collection''. As HOPE is finalized as of the FY 2025 final rule, it should not be referred to as ''proposed''. Therefore, the title of this Section III.D.2 is corrected to read: ''Implementation of Two Process Quality Measures Based on HOPE Data Collection.''

On page 64240, we made a typographical error in the sentence ''CMS maintains to avoid creating unnecessary burden for hospice providers.'' The sentence is corrected to read: ''CMS maintains its commitment to avoid creating unnecessary burden for hospice providers.''

On page 64242, we made a typographical error in the sentence ''Theses (SFVs) may be performed by RNs or LPNs/LVNs.'' The sentence is corrected to read: ''These SFVs may be performed by RNs or LPNs/LVNs.''

On page 64244, under the undesignated heading ''Public Availability of Data Submitted'', we made two typographical errors. We stated the following: ''We are finalizing the decision that the data from the first quarter Q4 CY 2025, if HOPE data

collection begins in October 2025, it will not be used for assessing validity and reliability of the quality measures.'' This sentence is corrected to read: ''We are finalizing the decision that the data from the first quarter—Q4 CY 2025, if HOPE data collection begins in October 2025—will not be used for assessing validity and reliability of the quality measures.''

We also inadvertently used the word ''proposed'' in our discussion of HOPE-based quality measures. HOPE-based quality measures are finalized as of the FY 2025 final rule; therefore, they should not be referred to as ''proposed''. The sentence incorrectly read: ''In light of all the steps required prior to data being publicly reported, we finalize the decision that public reporting of the proposed quality measures will be implemented no earlier than FY 2028, allowing ample time for data analysis, review of measures' appropriateness for use for public reporting, and allowing hospices the required time to review their own data prior to public reporting.''

As HOPE-based quality measures are finalized as of the FY 2025 final rule; they should not be referred to as ''proposed''. Therefore, this sentence is corrected to read: ''In light of all the steps required prior to data being publicly reported, we finalize the decision that public reporting of the HOPE-based quality measures will be implemented no earlier than FY 2028, allowing ample time for data analysis, review of measures' appropriateness for use for public reporting, and allowing hospices the required time to review their own data prior to public reporting.''

On page 64260, we made a typographical error inadvertently stating that under the Paperwork Reduction Act of 1995, we are required to provide ''60-day notice'' in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. Instead, we are required to provide a ''30-day notice.''

In addition, on page 64260, the sentence that reads ''The OMB control number will remain 0938–1153.'' and the parenthetical phrase that reads ''(set out in the PRA accompanying this Rule, as well as the HOPE Guidance Manual finalized in this Rule)'' are removed.

On page 64261, we referred readers to the HOPE Beta testing report and the PRA package associated with the rule. The ''PRA package'' should have been referred to as the ''information collection request''. In addition, we inadvertently omitted the expiration date for the information collection request. The sentence is corrected to read: ''For additional information regarding the calculation of HOPE time and cost burdens, please refer to the HOPE Beta Testing Report found on the HOPE web page at *https://www.cms.gov/medicare/quality/hospice/hope* and the information collection request (OMB control number 0938–1153/Expiration date: 1/31/2026) associated with this rule found at *https://www.cms.gov/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pra-listing*.''

On page 64262, we made a typographical error within Table 18. The cell ''HUV Timepoint'' is corrected to read: ''HUV Timepoints.''

B. Summary of Errors and Corrections Posted on the CMS Website

As discussed above, we inadvertently omitted FIPS county number 09150 Northeastern Connecticut planning region from the list of counties that must use a 500XX transition code beginning in FY 2025. That error was subsequently included in the FY 2025 Hospice wage index file exclusively on the CMS website at: *https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index*. In Tab 2 of the FY 2025 Hospice Wage Index file labeled ''CT Counties'', we are correcting the erroneous assignment of the Northeastern Connecticut planning region to CBSA 99907 for FY 2025, to reflect the newly assigned wage index transition code 50030. We are also correcting the omission of the Northeastern Planning Region from Tab 3 of the file labeled ''Transition Codes'', noting the addition of this region to the list of counties that must use a 500XX transition code instead of the statewide rural area code or CBSA number on the hospice claim beginning in FY 2025.

Given these errors, we are republishing the FY 2025 Hospice Wage Index file accordingly on the CMS website at: *https://www.cms.gov/medicare/payment/fee-for-service-providers/hospice/hospice-wage-index* effective October 1, 2024.

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 rulemaking in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rulemaking in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of 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 provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. 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 is 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 document does not constitute a rule that would be subject to the notice and comment or delayed effective date requirements. This correcting document corrects technical and typographical errors in the preamble, addenda, payment rates, and tables included or referenced in the FY 2025 Hospice final rule but does not make substantive changes to the policies or payment methodologies that were adopted in the FY 2025 Hospice final rule. As a result, this correcting document is intended to ensure that the information in the FY 2025 Hospice final rule accurately reflects the policies adopted in that document.

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 corrections in this correcting document into the final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for providers to receive appropriate payments in as timely a manner as possible, and to ensure that the FY 2025 Hospice final rule reflects our policies. Furthermore, such procedures would be unnecessary, as we are not altering our payment methodologies or policies, but rather, we are simply correctly implementing

the policies that we previously proposed, requested comment on, and subsequently finalized. This correcting document is intended solely to ensure that the FY 2025 Hospice final rule accurately reflects these payment methodologies and policies. For these reasons, we believe we have good cause to waive the notice and comment and delayed effective date requirements.

IV. Correction of Errors

In FR Doc. 2024–16910 of August 6, 2024 (89 FR 64202) make the following corrections:

1. On page 64207, second column, second full paragraph:

a. In lines 17 and 18, ''Hinesville-Fort Stewart, Georgia'' is corrected to read ''Hinesville, Georgia''.

b. In lines 19 and 20, ''Hinesville-Fort Stewart, Georgia'' is corrected to read ''Hinesville, Georgia''.

c. In line 20, the figure ''0.8872'' is corrected to read: ''0.8886''.

2. On page 64209, second column, paragraph below Table 2, ''53 counties (and county equivalents)'' is corrected to read ''54 counties and county equivalents''.

3. On page 64210, Table 3 is corrected by adding an entry at the beginning of the table for FIPS County code ''09015'' to read as follows:

TABLE 3—URBAN COUNTIES THAT WOULD CHANGE TO RURAL STATUS

FIPS county code	County name	State	Current CBSA	Current CBSA name
09015	WINDHAM	CT	49340	Worchester, MA-CT.
*	*	*	*	* * *

4. On page 64222, Table 8 is corrected by adding an entry at the beginning of the table for FIPS code ''09150''code to read as follows:

TABLE 8—COUNTIES THAT WILL USE A WAGE INDEX TRANSITION CODE

FIPS code	County name	FY 2024 CBSA	FY 2024 CBSA name	FY 2025 CBSA	FY 2025 CBSA name	FY 2025 transition code
09150	NORTHEASTERN CONNECTICUT.	49340	Worchester, MA–CT	99907	CONNECTICUT	50030
*	*	*	*	*	*	*

5. On page 64239, in the first column, the header ''2. Implementation of Two Process Quality Measures Based on Proposed HOPE Data Collection'' is corrected to read

''2. Implementation of Two Process Quality Measures Based on HOPE Data Collection''.

6. On page 64240, third column, first full paragraph, in lines 4 through 6, the sentence ''CMS maintains to avoid creating unnecessary burden for hospice providers.'' is corrected to read ''CMS maintains its commitment to avoid creating unnecessary burden for hospice providers.''

7. On page 64242, third column, last partial paragraph, in lines 11 and 12, the sentence ''Theses (SFVs) may be performed by RNs or LPNs/LVNs.'' is corrected to read ''These SFVs may be performed by RNs or LPNs/LVNs.''

8. On page 64244, second column:

a. First partial paragraph, the final sentence, ''We are finalizing the decision that the data from the first quarter Q4 CY 2025, if HOPE data collection begins in October 2025, it will not be used for assessing validity and reliability of the quality measures.'', is corrected to read ''We are finalizing the decision that the data from the first quarter—Q4 CY 2025, if HOPE data collection begins in October 2025—will not be used for assessing validity and reliability of the quality measures.''

b. Second full paragraph, in lines 7 through 17, the sentence that reads ''In light of all the steps required prior to data being publicly reported, we finalize the decision that public reporting of the proposed quality measures will be implemented no earlier than FY 2028, allowing ample time for data analysis, review of measures' appropriateness for use for public reporting, and allowing hospices the required time to review their own data prior to public reporting.'' is corrected to read ''In light of all the steps required prior to data being publicly reported, we finalize the decision that public reporting of the HOPE-based quality measures will be implemented no earlier than FY 2028, allowing ample time for data analysis, review of measures' appropriateness for use for public reporting, and allowing hospices the required time to review their own data prior to public reporting.''

9. On page 64260:

a. First column, first partial paragraph under the heading ''IV. Collection of Information Requirements'', in lines 2 and 3, ''60-day'' is corrected to read ''30-day''.

b. Third column, first partial paragraph:

i. In lines 3 and 4, the sentence that reads ''The OMB control number will remain 0938–1153.'' is removed.

ii. In lines 11 through 14, the parenthetical phrase ''(set out in the PRA accompanying this Rule, as well as the HOPE Guidance Manual finalized in this Rule)'' is removed.

10. On page 64261:

a. First column, first partial paragraph, in lines 1 through 11, the sentence that reads ''For additional information regarding the calculation of HOPE time and cost burdens, please refer to the HOPE Beta Testing Report found on the HOPE web page at *https://www.cms.gov/medicare/quality/hospice/hope* and the PRA package associated with this rule found at *https://www.cms.gov/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pra-listing.*'' is corrected to read ''For additional information regarding the calculation of HOPE time and cost burdens, please refer to the HOPE Beta Testing Report found on the HOPE web page at *https://www.cms.gov/medicare/*

quality/hospice/hope and the information collection request (OMB control number 0938–1153/Expiration date: 1/31/2026) associated with this rule found at *https://www.cms.gov/medicare/regulations-guidance/legislation/paperwork-reduction-act-1995/pra-listing.*''

b. Third column, lines 15 through 21, the sentence that reads ''This increase in incremental burden is explained further in the Regulatory Impact Analysis (RIA) section of this Rule, and is also discussed in detail in the Information Collection Request and PRA accompanying this Rule.'' is corrected to read ''This increase in incremental burden is explained further in the Regulatory Impact Analysis (RIA) section of this rule, and is also discussed in detail in the information collection request accompanying this rule (OMB control number (0938–1153/Expiration date: 1/31/2026).''

11. On page 64262, in Table 18, titled ''Summary of Changes in Burden'', the entry ''HUV Timepoint'' is corrected to read ''HUV Timepoints''.

Elizabeth J. Gramling,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2024–22495 Filed 9–27–24; 4:15 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[Docket No. FRA–2024–0034]

RIN 2130–AC98

Federal Railroad Administration Accident/Incident Investigation Policy for Gathering Information and Consulting With Stakeholders

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Direct final rule.

SUMMARY: FRA is taking direct final action to amend its Accident/Incident Regulations governing reporting, classification, and investigations by codifying FRA's policy for gathering information from, and consulting with, stakeholders during an accident/incident investigation.

DATES:

Effective date: This final rule is effective on October 31, 2024, without further notice unless FRA receives adverse, substantive comment by October 31, 2024. If FRA receives adverse, substantive comment on this direct final rule, it will publish a timely withdrawal in the **Federal Register** informing the public the rule will not take effect.

ADDRESSES:

Comments: Comments related to Docket No. FRA–2024–0034 may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking (RIN 2130–AC98). Note that all comments received will be posted without change to *https://www.regulations.gov* including any personal information provided. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. For additional submission methods and general guidance on making effective comments, please visit *https://www.transportation.gov/regulations/rulemaking-process.*

Docket: For access to the docket to read comments received, go to *https://www.regulations.gov* and follow the online instructions for accessing the docket.

FOR FURTHER INFORMATION CONTACT: Rick Huggins, Supervisory Railroad Security Specialist, Office of Railroad Safety, FRA, telephone: 202–465–6922 or email: *ricky.huggins@dot.gov;* or Senya Waas, Senior Attorney, Office of the Chief Counsel, FRA, telephone: 202–875–4158 or email: *senyaann.waas@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to 49 U.S.C. 20103, FRA, as delegated by the Secretary of Transportation,[1] has authority to ''prescribe regulations and issue orders for every area of railroad safety supplementing laws and regulations in effect on October 16, 1970.'' As part of its mission to enforce and improve rail safety, FRA investigates rail transportation accidents/incidents which result in serious injury to an individual or to railroad property. *See* 49 U.S.C. 20902. In Section 22417 of the Infrastructure Investment and Jobs Act (IIJA), Congress mandated that the Secretary of Transportation (Secretary) create a standard process for investigators to use during accident and incident investigations conducted under this section. This process is to be used to determine when it is appropriate and the appropriate method for gathering information about an accident or incident under investigation from railroad carriers, contractors or employees of railroad carriers, or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary. The process will also be used to determine when it is appropriate to consult with railroad carriers, contractors or employees of railroad carriers, or representatives of employees of railroad carriers, and others, as determined relevant by the Secretary, for technical expertise on the facts of the accident or incident under investigation. *See* Public Law 117–58, section 22417, Nov. 15, 2021, 135 Stat. 748.

In developing this standard process, the Secretary must also factor in ways to maintain the confidentiality of any entity if:

(1) The entity requests confidentiality;

(2) The entity was not involved in the accident or incident; and

(3) Maintaining the entity's confidentiality does not adversely affect FRA's investigation.

The IIJA specifies that any process developed under section 22417 applies only to FRA investigations and does not apply to any investigation carried out by the National Transportation Safety Board (NTSB).

In response to the IIJA mandate, FRA worked with stakeholders, including both labor and rail organizations, to develop a *Policy for Gathering Information and Consulting with Stakeholders* (Policy Document). The resulting Policy Document is available on FRA's website [2] and includes guidelines for:

- When FRA will provide the opportunity for stakeholders to participate in FRA accident/incident investigations;
- How FRA will notify stakeholders of an accident investigation in which they may participate;
- The expectations of stakeholders;
- How stakeholders can participate in FRA's accident investigation process;
- How stakeholders can submit information to FRA to assist with the investigation; and
- How confidentiality of individuals and requests for confidentiality by entities will be addressed and maintained.

This rule codifies the process contained in the Policy Document.

[1] 49 CFR 1.89(a); 49 U.S.C. 103(g).

[2] *https://railroads.dot.gov/elibrary/bipartisan-infrastructure-law-section-22417-fra-accident-and-incident-investigations-0.*

FRA is publishing this rule without a prior proposed rule because it views this as a noncontroversial action that generally codifies FRA's current process for accident investigations. As noted above, FRA has already worked with stakeholders (both labor and the rail organizations) to develop the Policy Document which is posted on FRA's website. Accordingly, FRA anticipates no adverse, substantive comment on any of the provisions of the rule. If FRA receives an adverse, substantive comment on any of the provisions, it will publish in the **Federal Register** a timely withdrawal, informing the public that the direct final rule will not take effect.

II. Section-by-Section Analysis

Part 225 Investigations

FRA is amending 49 CFR 225.31 by consolidating existing paragraphs (a) through (f) into numbered paragraphs (a)(1) through (6) and adding new paragraph (b) addressing stakeholder participation in certain FRA accident/incident investigations. FRA is also revising existing paragraph (a) (now paragraph (a)(1)) to clarify that FRA's policy is to investigate rail accidents/incidents which result in the serious injury or death of a railroad employee or passenger and other accidents/incidents where FRA determines investigation would substantially serve to promote railroad safety.

New paragraph (b) codifies the process contained in the Policy Document. Specifically, paragraph (b) codifies the procedures for FRA investigators to gather information from, and consult with, various stakeholders as part of certain accident/incident investigations. Consistent with the Policy Document, paragraph (b) includes guidelines for when FRA will provide stakeholders the opportunity to participate in investigations, how FRA will notify stakeholders of an accident investigation, how stakeholders will participate in the accident investigation process, and how stakeholders can submit information to FRA to assist with the investigation.

Paragraph (b) explains that, based on initial information, for accidents or incidents involving an on-duty employee fatality, an on-duty employee amputation, or an on-duty employee suffering a life-threatening injury), and other accidents or incidents FRA's Chief Safety Officer (or their delegate) determines appropriate, FRA will provide an opportunity for stakeholder involvement in the agency's accident investigation. Paragraph (b) further provides that those stakeholders may include railroads, contractors, employees, representatives of employees, industry associations, academia, the Volpe National Transportation Systems Center, and others, as FRA determines relevant.

Paragraphs (b)(1) through (6) set forth the procedures both FRA and involved stakeholders must follow when conducting or participating in accident/incident investigations under this section.

Paragraph (b)(1) addresses FRA's initial accident response and stakeholder notification. Specifically, when initiating an accident investigation under this section, paragraph (b)(1) requires FRA to identify stakeholders relevant to the accident/incident.

Paragraph (b)(1)(i) requires FRA to notify identified stakeholders when it is initiating an investigation of an accident or incident under paragraph (b), and (b)(1)(ii) requires stakeholders interested in participating in any such investigation to communicate their intent to participate to FRA's Chief Safety Officer (or their delegate) within 24 hours of being notified of the investigation.

As soon as practicable after receipt of a stakeholder's notice of its intent to participate in an FRA investigation, paragraph (b)(1)(iii) requires FRA to establish clear channels of communication with stakeholders, including, for example, email correspondence, teleconferences, and in-person meetings, to facilitate the efficient transfer of information, and consultation and coordination between FRA and the stakeholders.

Paragraph (b)(2) establishes guidelines for stakeholder access to an accident or incident site, and includes rules that FRA, the involved railroad(s), and other stakeholders must follow. Specifically, paragraph (b)(2)(i) provides that stakeholders may only gain access to an accident site through the incident command (if the accident site is off railroad property) or on-site railroad personnel (if the accident site is on-railroad property). This paragraph makes clear that when investigations occur on railroad property, although FRA encourages railroads to permit on-site access to all relevant stakeholders participating in FRA's investigation process and expects that railroads will grant such access, FRA cannot, at its own discretion, provide stakeholders access. If a railroad rule prohibits a stakeholder from accessing an accident site during FRA's on-site investigation, the railroad must promptly notify FRA in writing of any such rule and FRA will subsequently communicate the substance of that rule to all affected stakeholders. Paragraph (b)(2)(i) further provides that, in the event a railroad rule prohibits a stakeholder from accessing an accident site, FRA may consult with that stakeholder by other means (*e.g.,* real time participation in on-site meetings via video or conference call, off-site in-person meetings, virtual meetings, or phone calls).

Paragraph (b)(2)(ii) makes clear that any stakeholders participating in FRA's accident/incident investigation process under this paragraph are not actual or implied agents of FRA and, as such, FRA is not responsible for the safety of the stakeholders.

Paragraph (b)(2)(iii) provides that FRA will initiate its on-site investigation when FRA staff arrive at an accident site, and the FRA investigation team will depart the accident site upon completion of FRA's on-site investigation activities. FRA will not await the arrival of stakeholder representatives to begin its investigation, and, if a stakeholder timely notifies FRA's of its intent to participate but does not arrive at the accident/incident scene during the investigation, FRA may make a reasonable effort, at its discretion, to provide a verbal summary of the status of the investigation before FRA departs the scene.

Paragraph (b)(2)(iv) requires each stakeholder representative participating in FRA's on-site investigation to contact the FRA Inspector-in-Charge (IIC) upon arrival at the accident site and provide photo identification to the IIC. This paragraph further explains that, at the time of a stakeholder's initial contact with the IIC, the IIC or other FRA representative will provide the stakeholder with the name and contact information for the incident commander and other pertinent information related to the accident known to the IIC at the time.

Paragraph (b)(3) addresses stakeholder participation in FRA's off-site information gathering and investigative activities. Specifically, paragraph (b)(3)(i) provides that FRA will establish a means to receive and share documents and information electronically with stakeholders. As outlined in FRA's *Policy for Gathering Information and Consulting with Stakeholders,* FRA has developed a web-based document sharing site for stakeholders to provide relevant documents or information to FRA and for FRA to share relevant information with stakeholders. Consistent with the published policy statement, stakeholders submitting documents and information to FRA's investigation team must submit those

materials electronically through the site. Protection of personal confidential information and requests for protection of confidential business information by entities that have been granted by FRA will apply to relevant documents provided pursuant to this paragraph.

Paragraph (b)(3)(ii) provides that stakeholders may request meetings with representatives of other non-FRA stakeholders and request that FRA participate in such meetings. Although FRA participation is not guaranteed, any information pertinent to the investigation made available through these meetings must be documented and submitted to FRA.

Paragraph (b)(3)(iii) provides that any stakeholder seeking to provide confidential information to FRA, must coordinate with the IIC prior to submittal of that information and submit the information to FRA in compliance with 49 CFR 209.11.

Paragraph (b)(4) addresses stakeholder participation in FRA's off-site analysis portion of an FRA accident investigation. This paragraph provides that, when FRA deems appropriate, the FRA investigation team will consult with stakeholders to review the facts gathered during the FRA's investigation, FRA's analysis of those facts, and FRA's input and outputs of root cause analyses. Stakeholders may offer input, raise concerns, and participate in discussions aimed at identifying root causes and potential recommendations to mitigate risk or prevent reoccurrence of the accident/incident. Stakeholders will not be included in any FRA deliberations or consideration of potential compliance or enforcement issues related to an accident/incident investigation.

Paragraph (b)(5) addresses the confidentiality of certain information related to accident or incident investigations.

Paragraph (b)(5)(i) specifies that, in accordance with all applicable laws and regulations, FRA will maintain as confidential any personally identifiable information or sensitive security information as defined in 49 CFR 1520.5, respectively. This paragraph further requires that any documents or information a stakeholder provides to FRA as part of that stakeholder's participation in an accident/incident under this section, and for which the stakeholder requests confidentiality, must be submitted in accordance with 49 CFR 209.11. Moreover, FRA, pursuant to 49 CFR part 209, will maintain the confidentiality of any stakeholder if: (1) such stakeholder requests confidentiality; (2) such stakeholder was not involved in the accident or incident; and (3) maintaining such stakeholder's confidentiality does not adversely affect an FRA investigation.

Additionally, until FRA publishes its report on an investigation, stakeholders participating in the investigation may not disseminate any information (whether that information is confidential or not), or comment on an investigation to non-stakeholders through any means, unless FRA's Chief Safety Officer determines that public safety necessitates allowing the release of certain information to non-stakeholders. FRA's Chief Safety Officer must make any such determination in writing. This limitation on sharing information is intended to limit participating stakeholders from publicly sharing information about the ongoing investigation, to ensure FRA's ability to conduct the investigation. The limitation does not limit participating stakeholders from sharing information with individuals within their organization.

Paragraph (b)(6) provides that nothing in this rule may be construed to reduce, in any way, the protections afforded to individuals who exercise the conduct protected by 49 CFR 225.33, *Internal Control Plans,* and 49 United States Code (U.S.C.) 20109, *Federal Railroad Safety Act, Whistleblower Protections.*

Paragraphs (d), (e), and (f) of this section are being redesignated as paragraphs (a)(2) through (6) although the text remains substantively unchanged.

III. Regulatory Impact and Notices

A. Executive Order 12866 as Amended by Executive Order 14094 and DOT Regulatory Policies and Procedures

This final rule is a non-significant regulatory action within the meaning of Executive Order (E.O.) 12866, as amended by E.O. 14094, ''Modernizing Regulatory Review'' [3] and DOT's Order, ''Rulemaking and Guidance Procedures,'' DOT 2100.6A (June 7, 2021).[4] FRA made this determination because the economic effects of this regulatory action will not exceed the $100 million annual threshold as defined by E.O. 12866.

FRA is amending its Accident/Incident Regulations, covering reporting, classification, and investigations, by codifying its policy for gathering information from and consulting with stakeholders during an accident/incident investigation. FRA has revised its accident investigation process to establish procedures for stakeholder participation in investigation, including notifying stakeholders of an accident investigation; permitting the assistance of stakeholders in investigations; and allowing stakeholders to submit information to FRA to assist with the investigation.

FRA anticipates the primary benefit of this rule will be the increased information made available for accident/incident investigations. Involving stakeholders may result in the accident investigation process receiving more diverse perspectives and more complete information, which will provide accident investigators with valuable information that could be essential towards making well-informed determinations. FRA also expects that providing a means to submit information to an accessible web-based document sharing site will increase transparency and efficiency in the accident investigation process since there will now be one central point for all documentation related to each accident investigation, and the information will be accessible to all necessary parties.

FRA estimates this direct final rule will incur a cost of approximately $0.8 million (Present Value (PV),[5] 7-percent) over the next ten years. Table 1 displays the costs of this rule.

[3] 88 FR 21879 (Apr. 6, 2023) available at *https://www.federalregister.gov/documents/2023/04/11/2023-07760/modernizing-regulatory-review.*

[4] DOT–2100.6A-Rulemaking and Guidance (Jun. 7, 2021) available at *https://www.transportation.gov/sites/dot.gov/files/2021-08/Final-for-OST-C-210407-001-signed.pdf.*

[5] The present value of costs are calculated in this analysis. Present value provides a way of converting future costs into equivalent DOT–2100.6A—Rulemaking and Guidance (Jun. 7, 2021) available at *https://www.transportation.gov/sites/dot.gov/files/2021-08/Final-for-OST-C-210407-001-signed.pdf.*

TABLE 1—TOTAL COSTS OF THE DIRECT FINAL RULE (2023 DOLLARS) [6]

Year	Total stakeholder costs	Total government costs	Total costs	Discounted 7%	Discounted 3%
1	$97,922	$19,753	$117,675	$117,675	$117,675
2	97,922	10,541	108,463	101,367	105,304
3	97,922	10,541	108,463	94,736	102,237
4	97,922	10,541	108,463	88,538	99,259
5	97,922	10,541	108,463	82,746	96,368
6	97,922	10,541	108,463	77,333	93,561
7	97,922	10,541	108,463	72,273	90,836
8	97,922	10,541	108,463	67,545	88,190
9	97,922	10,541	108,463	63,126	85,622
10	97,922	10,541	108,463	58,997	83,128
Total	979,220	114,622	1,093,842	824,336	962,180

Note: This table and some others throughout this analysis may not sum due to rounding.

Baseline Scenario

If this final rule were not promulgated, FRA would conduct the same number of annual accident/incident investigations but would not have a formal process to allow stakeholders to submit relevant documents to FRA related to an accident/incident. The accident/incident investigation process will now include an opportunity for stakeholders to participate in formal investigations. The additional documentation from stakeholders will create more transparency and efficiency in the accident investigation process.

Assumptions and Inputs

The analysis associated with this final rule is based on assumptions in Table 2. Unless otherwise specified, FRA obtained these estimates from subject matter experts within FRA's Office of Railroad Safety, who have over 50 years of combined industry experience. This analysis uses a 2023 base year. Numbers are not discounted in the first year of analysis.

TABLE 2—ASSUMPTIONS

Accident Investigation Notifications	
Annual number of accidents/incidents per year for which FRA will require stakeholder notifications	25 accidents.
Time for Chief Safety Officer to provide each notification	0.25 hours.
Stakeholder Accident Investigation Representations	
Percent of accident investigations with in-person representation	50 percent.
Round-trip travel time per day for union representative	2 hours.
Time per day for accident/incident investigation	8 hours.
Average number of union representatives per investigation	2 employees.
Average number of investigation days per accident/incident	3 days.
Percent of accident/incident investigations that may overlap with National Transportation Safety Board investigations.	25 percent.
Percent of accident/incident investigations that may require a hotel stay	50 percent.
Stakeholder hotel and flight travel costs per investigation	1,500 dollars.
FRA-Provided Training and Outreach	
FRA outreach training time	1 hour.
Number of annual FRA training sessions	5 sessions.
Stakeholder Documentation Submissions to FRA	
Percent of investigations where stakeholders submit documents to FRA	100 percent.
Time per investigation to gather and submit documents	4 hours.
FRA Review of Stakeholder Documentation	
Time for FRA employee to review documents	2 hours.
Document Sharing Site Creation	
Time to create document sharing site	64 hours.
Time for FRA Senior Leadership to review/approve document sharing site	16 hours.
Time needed for IT developers to grant document sharing site access to stakeholders	1 hour.

[6] All figures are presented in a 2023 base year unless otherwise noted.

Benefits

FRA anticipates the primary benefit of this rule will be the increased information made available for accident/incident investigations. FRA has not quantified the benefits of this final rule, but FRA expects these benefits should be considered when discussing the effect of this final rule. Involving stakeholders may result in the accident investigation process receiving more diverse perspectives and more complete information, which will provide accident investigators with valuable information that could be essential towards making well-informed determinations. FRA also expects that providing a means to submit information to an accessible web-based document sharing site will increase transparency and efficiency in the accident investigation process since there will now be one central point for all documentation related to each accident investigation, and the information will be accessible to all necessary parties. FRA acknowledges that additional unquantified benefits could occur as a result of this final rule.

Costs

FRA estimates the costs that would be associated with this final rule. Specifically, there will be time and travel-related costs to stakeholders who participate in the accident/incident investigations, as well as time spent in their submission of documents to FRA. There will also be costs to FRA related to accident/incident investigation notifications, training, and outreach, reviewing stakeholder documentations, and the creation of the web-based document sharing site.

Accident Investigation Notifications

FRA will provide notifications to stakeholders for each investigation of an accident/incident that results in the serious injury or death of a railroad employee or passenger and other accidents/incidents for which FRA determines investigation would substantially serve to promote railroad safety. The notifications will include relevant details regarding the accident/incident, and the scope of the investigation. FRA estimates that approximately 25 accident/incident investigation notifications will be sent annually, and each notification will take approximately 15 minutes (0.25 hours) to send. FRA's Chief Safety Officer (or their designee) will notify relevant stakeholders when FRA is initiating an accident investigation subject to this rule.[7] For purposes of this analysis, FRA uses a burdened wage rate of $148.56 to represent the wage for the Chief Safety Officer.[8] Using this information, FRA estimates an annual cost of $929, undiscounted, for accident investigation notifications to be sent to stakeholders. Table 3 displays the annual cost to FRA for sending accident/incident investigation notifications to stakeholders.

TABLE 3—ANNUAL ACCIDENT INVESTIGATION NOTIFICATIONS

Number of annual notifications	Time per notification (hours)	Burdened hourly wage	Annual notification cost
a	b	c	d = a × b × c
25	0.25	$148.56	$929

In-Person Representation

Upon receiving notification from FRA, stakeholders are given the opportunity to participate in each accident/incident investigation. FRA subject matter experts assume stakeholders will attend approximately 50 percent of the investigations in-person. Using this data, FRA estimates stakeholders will attend 13 accident/incident investigations annually. However, FRA anticipates that about 25 percent of these accident investigations may have some overlap with existing NTSB accident investigations. Thus, FRA estimates approximately 10 annual FRA-led accident/incident investigations will have stakeholder in-person representation. FRA uses this assumption to estimate travel and in-person investigation cost estimates in the sections below. Table 4 displays the number of annual FRA-led investigations with in-person stakeholder representation that will be used for purposes of this analysis.

TABLE 4—ANNUAL FRA-LED INVESTIGATIONS WITH IN-PERSON STAKEHOLDER REPRESENTATION

Number of annual in-person investigations attended	Percentage of FRA-led investigations	Number of annual FRA-led investigations
a	b	c = a × b
13	75	10

Travel Costs

For purposes of this analysis, FRA estimates travel costs associated with the FRA-led accident investigations. FRA assumes stakeholders will send senior-level representation for each accident/incident investigation. FRA uses a wage of $118.46 to represent the burdened hourly wage for stakeholder representation throughout this analysis.[9]

[7] In some situations, FRA's Chief Safety Officer may delegate this duty to other FRA personnel. In these cases, the costs would be lower.

[8] Senior Executive Service, average salary, 2023, burdened at 75%. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/23Tables/exec/html/ES.aspx.*

[9] STB 2023 wage rates for Group #100 (Executives, Officials, & Staff Assistants), $67.69, burdened at 75-percent. Surface Transportation Board: 2023 Quarterly Wage A&B Data, annual data. *https://www.stb.gov/reports-data/economic-data/quarterly-wage-ab-data/.*

FRA assumes stakeholders would drive to the investigation location daily, and half of the stakeholders would incur additional hotel and flight expenses. FRA assumes two stakeholder representatives would attend each investigation for purposes of this analysis.

FRA estimates all of the annual FRA-led investigations will require stakeholders to drive to and from the investigation location each day, either from home or from a hotel. FRA assumes, on average, each investigation will take approximately three working days (or 24 hours total) for purposes of this analysis. FRA estimates it will take stakeholders approximately one hour to drive each one-way trip (or two hours daily). Table 5 displays the travel costs associated with stakeholders commuting daily to/from the investigation site.

TABLE 5—STAKEHOLDER DRIVING COSTS

Number of annual investigations	Stakeholder travel time per investigation (hours)	Number of stakeholders	Burdened hourly wage	Travel (driving) costs
a	b	c	d	e = a × b × c × d
10	6	2	$118.46	$14,215

FRA estimates half (5) of the annual FRA-led investigations may require stakeholders to pay for flight and hotel travel expenses. FRA assumes travel costs for stakeholders would accrue to approximately $1,500 per investigation. Table 6 displays the travel costs associated with stakeholders who may require flight and hotel expenses.

TABLE 6—STAKEHOLDER HOTEL AND FLIGHT COSTS

Number of annual investigations with flight and hotel	Stakeholder flight and hotel costs per investigation	Number of stakeholders	Annual flight and hotel costs
a	b	c	d = a × b × c
5	$1,500	2	$15,000

Using the information above, FRA estimates an annual stakeholder travel cost of $29,215, undiscounted, for this rule.

Accident Investigation Participation

FRA estimates stakeholders will participate in 10 FRA-led accident/incident investigations each year. FRA estimates, on average, each investigation will take 24 hours (three working days) to complete. Using this information, FRA estimates an annual cost of $56,861 for stakeholders to participate in FRA-led investigations, shown in Table 7.

TABLE 7—ANNUAL COST FOR STAKEHOLDER INVESTIGATION PARTICIPATION

Number of annual FRA-led investigations	Average number of hours per investigation	Number of stakeholders	Burdened hourly wage	Annual cost
a	b	c	d	e = a × b × c × d
10	24	2	$118.46	$56,861

Documentation Submission

FRA estimates stakeholders will submit documentation for each accident/incident investigation, regardless of whether the stakeholder participates in-person. FRA estimates it will take stakeholders approximately four hours to gather and submit relevant documents to FRA for the investigation process. FRA estimates an annual cost of $11,846 for stakeholders to submit documents to FRA for investigations, shown in Table 8.

TABLE 8—ANNUAL COST FOR STAKEHOLDERS TO SUBMIT DOCUMENTS TO FRA

Number of annual submissions	Time per submission (hours)	Burdened hourly wage	Annual submission cost
a	b	c	d = a × b × c
25	4	$118.46	$11,846

FRA estimates, upon receiving the documents from stakeholders, a railroad safety specialist will conduct a review of the package. FRA estimates that each submission package will take approximately two hours to review. For purposes of this analysis, FRA uses a burdened hourly wage rate of $126.21 to represent the wage for a railroad safety specialist.[10] FRA estimates an annual cost of $6,311 for FRA to review the documents submitted by stakeholders, shown in Table 9.

TABLE 9—FRA DOCUMENTATION REVIEW

Number of annual submission reviews a	Time per review (hours) b	Burdened hourly wage c	Annual review cost d = a × b × c
25	2	$126.21	$6,311

FRA Outreach to Stakeholders

FRA anticipates multiple occasions annually where FRA would meet with labor unions and stakeholder groups to ensure they understand the amendments to the accident investigation process. FRA estimates five meetings would occur annually where a railroad safety specialist would provide outreach to stakeholders and answer questions they may have regarding the amended process. FRA estimates each session would take approximately one hour to conduct. FRA uses this information to estimate an annual cost of $631 for stakeholder outreach, shown in Table 10.

TABLE 10—FRA OUTREACH COSTS

Number of FRA outreach sessions a	Time per session (hours) b	Burdened hourly wage c	Annual outreach cost d = a × b × c
5	1	$126.21	$631

Web-Based Document Sharing Site Creation

FRA has developed a web-based document sharing site as a means for stakeholders to submit documents to FRA as a part of the accident/incident investigation process. FRA anticipates stakeholders will utilize this site as the primary means of document submission and sharing of information for future accident investigations.[11]

The web-based document sharing site was created internally by FRA's information technology (IT) office. The total project development time was 80 hours. The project development process was split between both an IT developer creating the site and FRA senior leadership reviewing and approving the site before it was finalized. FRA estimates it took 64 hours for the IT developer to create and finalize the web-based document sharing site, and it took 16 hours for FRA senior leadership to review and approve it. For purposes of this analysis, FRA uses a burdened wage rate of $106.80 to estimate the costs of the web-based document sharing site creation.[12] Table 11 displays the one-time costs of the web-based document sharing site.

TABLE 11—WEB-BASED DOCUMENT SHARING SITE CREATION

	Web-based document sharing site development time (hours) a	Burdened wage rate b	Web-based document sharing site cost c = a × b
IT Specialist	64	$106.80	$6,835
SES Review/Approval	16	148.56	2,377
Total	80		9,212

FRA estimates all 25 annual accident investigations will have documentation submitted by the stakeholders, regardless of whether or not the stakeholder participates in-person. FRA estimates stakeholders would need to

[10] Washington, DC Locality Pay, 2023, GS–14, Step 5 ($150,016), divided by 2,080 hours, burdened at 75%. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/23Tables/html/DCB.aspx.*

[11] Although FRA anticipates the web-based document sharing site as the primary means to submit/share information relevant to accident/incident investigations, stakeholders may still submit relevant information to FRA without using the site.

[12] Washington, DC Locality Pay, 2023, GS–13, Step 5 ($126,949), divided by 2,080 hours, burdened at 75%. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/23Tables/html/DCB.aspx.*

submit minimal contact information to FRA to be granted access to the web-based document sharing site. FRA considers these costs to be *de minimis.* However, FRA does account for the cost to FRA for granting access to stakeholders once this information has been submitted. FRA estimates it will take approximately one hour for FRA's IT developer to grant access to each stakeholder upon receiving the necessary information. Table 12 displays the annual cost to FRA for granting stakeholders access to the web-based document sharing site.

TABLE 12—FRA COSTS FOR GRANTING STAKEHOLDERS DOCUMENT SHARING SITE ACCESS

Number of annual stakeholder access requests	Time to grant access (hours)	Burdened wage rate	Annual access cost
a	b	c	d = a × b × c
25	1	$106.80	$2,670

Total Costs

FRA estimates a total 10-year cost of $0.7 million (PV, 7-percent) to stakeholders for this rule. Table 13 displays the total costs to stakeholders for this final rule.

TABLE 13—TOTAL 10-YEAR COST TO STAKEHOLDERS

Year	Travel	Investigation participation	Document submission	Total stakeholder costs	Discounted 7%	Discounted 3%
1	$ 29,215	$ 56,861	$ 11,846	$ 97,922	$ 97,922	$ 97,922
2	29,215	56,861	11,846	97,922	91,516	95,070
3	29,215	56,861	11,846	97,922	85,529	92,301
4	29,215	56,861	11,846	97,922	79,934	89,613
5	29,215	56,861	11,846	97,922	74,704	87,002
6	29,215	56,861	11,846	97,922	69,817	84,468
7	29,215	56,861	11,846	97,922	65,250	82,008
8	29,215	56,861	11,846	97,922	60,981	79,620
9	29,215	56,861	11,846	97,922	56,991	77,301
10	29,215	56,861	11,846	97,922	53,263	75,049
Total	292,150	568,610	118,460	979,220	735,907	860,354

FRA estimates a total 10-year cost of $0.1 million (PV, 7-percent) to FRA for this rule. Table 14 displays the total costs to FRA for this final rule.

TABLE 14—TOTAL 10-YEAR COST TO FRA

Year	Notifications	Outreach/ training	Documentation review	Web-based document sharing site	Total government costs	Discounted 7%	Discounted 3%
1	$929	$631	$6,311	$11,882	$19,753	$19,753	$19,753
2	929	631	6,311	2,670	10,541	9,851	10,234
3	929	631	6,311	2,670	10,541	9,207	9,936
4	929	631	6,311	2,670	10,541	8,605	9,647
5	929	631	6,311	2,670	10,541	8,042	9,366
6	929	631	6,311	2,670	10,541	7,516	9,093
7	929	631	6,311	2,670	10,541	7,024	8,828
8	929	631	6,311	2,670	10,541	6,564	8,571
9	929	631	6,311	2,670	10,541	6,135	8,321
10	929	631	6,311	2,670	10,541	5,734	8,079
Total	9,290	6,310	63,110	35,912	114,622	88,431	101,828

FRA estimates a total 10-year cost of $0.8 million (PV, 7-percent) for this direct final rule, shown in Table 15.

TABLE 15—10-YEAR TOTAL COSTS

Year	Total stakeholder costs	Total government costs	Total costs	Discounted 7%	Discounted 3%
1	$97,922	$19,753	$117,675	$117,675	$117,675
2	97,922	10,541	108,463	101,367	105,304
3	97,922	10,541	108,463	94,736	102,237
4	97,922	10,541	108,463	88,538	99,259
5	97,922	10,541	108,463	82,746	96,368
6	97,922	10,541	108,463	77,333	93,561
7	97,922	10,541	108,463	72,273	90,836
8	97,922	10,541	108,463	67,545	88,190
9	97,922	10,541	108,463	63,126	85,622
10	97,922	10,541	108,463	58,997	83,128
Total	979,220	114,622	1,093,842	824,336	962,180

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 ((RFA), 5 U.S.C. 601 *et seq.*) and E.O. 13272 (67 FR 53461, Aug. 16, 2002) require agency review of proposed and final rules to assess their impacts on small entities. When an agency issues a proposed rule, the RFA requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' which will ''describe the impact of the proposed rule on small entities.'' 5 U.S.C. 603(a). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities. Although this final rule will impact small entities, it is entirely voluntary for those entities to participate, imposing only *de minimis* additional burdens or benefits on regulated entities. The regulation would therefore not have a significant impact on a substantial number of small entities. Pursuant to 5 U.S.C. 601(b), the FRA Administrator hereby certifies that this final rule will not have a significant impact on a substantial number of small entities.

In addition, FRA has determined the RFA does not apply to this rulemaking. The Small Business Administration's A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act (2017), provides that if, under either the APA or any rule of general applicability governing federal grants to state and local governments, the agency is required to publish a general notice of proposed rulemaking (NPRM), the RFA must be considered. *See* 5 U.S.C. 604(a). If an NPRM is not required, the RFA does not apply. Therefore, because FRA is not required to publish an NPRM, the RFA does not apply.

C. Paperwork Reduction Act

There are no new or additional information collection requirements associated with this final rule. Therefore, FRA is not required to provide an estimate of a public reporting burden in this document.

D. Environmental Assessment

FRA has evaluated this final rule in accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), the Council of Environmental Quality's NEPA implementing regulations (40 CFR parts 1500 through 1508), FRA's regulations implementing NEPA (23 CFR part 771), and other environmental statutes, executive orders, and related regulatory requirements. FRA has determined that this rule is categorically excluded from environmental review and therefore does not require the preparation of an environmental assessment (EA) or environmental impact statement (EIS). Categorical exclusions (CEs) are actions identified in an agency's NEPA implementing procedures that do not normally have a significant impact on the environment and therefore do not require either an EA or EIS. Specifically, FRA has determined that this final rule is categorically excluded from detailed environmental review.

This rulemaking would not directly or indirectly impact any environmental resources and would not result in significantly increased emissions of air or water pollutants or noise. In analyzing the applicability of a CE, FRA must also consider whether unusual circumstances are present that would warrant a more detailed environmental review. FRA has concluded that no such unusual circumstances exist with respect to this final rule and it meets the requirements for categorical exclusion.

Pursuant to Section 106 of the National Historic Preservation Act and its implementing regulations, FRA has determined this undertaking has no potential to affect historic properties. FRA has also determined that this rulemaking does not approve a project resulting in a use of a resource protected by Section 4(f). Further, FRA reviewed this final rulemaking and found it consistent with E.O. 14008, ''Tackling the Climate Crisis at Home and Abroad.''

E. Environmental Justice

Executive Order 14096, ''Revitalizing Our Nation's Commitment to Environmental Justice for All,'' which expands on E.O. 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' requires DOT agencies to achieve environmental justice as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations. DOT Order 5610.2C (''U.S. Department of Transportation Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'') instructs DOT agencies to address compliance with E.O. 12898 and requirements within the DOT Order 5610.2C in rulemaking activities, as appropriate, and also requires consideration of the benefits of transportation programs, policies, and other activities where minority populations and low-income populations benefit, at a minimum, to the same level as the general population as a whole when determining impacts on minority and low-income

populations.[13] FRA has evaluated this final rule under Executive Orders 12898, 14096, and DOT Order 5610.2C, and has determined it will not cause disproportionate and adverse human health and environmental effects on communities with environmental justice concerns.

F. Federalism Implications

This final rule will not have a substantial 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. Thus, in accordance with E.O. 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

G. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure, in the aggregate, of $100,000,000 or more, adjusted for inflation, in any one year by State, local, or Indian Tribal governments, or the private sector. Thus, consistent with section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1532), FRA is not required to prepare a written statement detailing the effect of such an expenditure.

H. Energy Impact

E.O. 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). FRA has evaluated this rule in accordance with E.O. 13211 and determined that this rule is not a ''significant energy action'' within the meaning of E.O. 13211.

I. Executive Order 13175 (Tribal Consultation)

FRA has evaluated this final rule in accordance with the principles and criteria contained in E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments,'' dated November 6, 2000. The final rule would not have a substantial direct effect on one or more Indian tribes, would not impose substantial direct compliance costs on Indian tribal governments, and would not preempt tribal laws. Therefore, the funding and consultation requirements of E.O. 13175 do not apply, and a tribal summary impact statement is not required.

[13] E.O. 14096 ''Revitalizing Our Nation's Commitment to Environmental Justice,'' issued on April 26, 2023, supplements E.O. 12898, but is not currently referenced in DOT Order 5610.2C.

J. International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. This rulemaking is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

In consideration of the foregoing, FRA amends part 225 of chapter II, subtitle B of title 49, Code of Federal Regulations as follows:

PART 225—RAILROAD ACCIDENTS/INCIDENTS: REPORTS CLASSIFICATION, AND INVESTIGATIONS

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–20902, 21301, 21302, 21311; 28 U.S.C. 2461 note; and 49 CFR 1.89.

■ 2. Revise and republish § 225.31 to read as follows:

§ 225.31 Investigations.

(a) *General.* (1) It is the policy of FRA to investigate rail transportation accidents/incidents which result in the serious injury or death of a railroad employee or passenger and other accidents/incidents, the investigation of which FRA determines would substantially serve to promote railroad safety.

(2) FRA representatives are authorized to investigate accidents/incidents and have been issued credentials authorizing them to inspect railroad records and properties. They are authorized to obtain all relevant information concerning accidents/incidents under investigation, to make inquiries of persons having knowledge of the facts, conduct interviews and inquiries, and attend as an observer, hearings conducted by railroads. When necessary to carry out an investigation, the FRA may authorize the issuance of subpoenas to require the production of records and the giving of testimony.

(3) Whenever necessary, the FRA will schedule a public hearing before an authorized hearing officer, in which event testimony will be taken under oath, a record made, and opportunity provided to question witnesses.

(4) When necessary in the conduct of an investigation, the Federal Railroad Administrator may require autopsies and other tests of the remains of railroad employees who die as a result of an accident/incident.

(5) Information obtained through FRA accident investigations may be published in public reports or used for other purposes FRA deems to be appropriate.

(6) Section 20903 of title 49 of the United States Code provides that no part of a report of an accident investigation under section 20902 of title 49 of the United States Code may be admitted as evidence or used for any purpose in any suit or action for damages growing out of any matter mentioned in the accident investigation report.

(b) *Stakeholder participation.* For accidents or incidents involving, based on initial information, an on-duty employee fatality, an on-duty employee amputation, or an on-duty employee suffering life-threatening injuries, and other accidents or incidents FRA's Chief Safety Officer (or their delegate) determines appropriate, FRA will provide an opportunity for stakeholder involvement in FRA's accident investigation. Stakeholders may include, but are not limited to, railroads, contractors, employees, representatives of employees, industry associations, academia, the Volpe Center, and any other persons or entities FRA determines to be relevant. FRA, involved stakeholders, and railroads whose property is the site of an investigation, shall adhere to the following procedures and limits when conducting or participating in accident/incident investigations under this section:

(1) *Initial response and stakeholder notification.* When initiating an investigation into an accident under this paragraph, FRA will identify stakeholders relevant to the accident or incident.

(i) FRA will promptly notify, in writing where practicable, the identified stakeholders of the agency's initiation of an investigation into an accident or incident. Such notifications will include the known relevant details regarding the incident and the expected scope of the investigation.

(ii) Stakeholders interested in participating in the investigation must communicate their intent to participate to FRA's Chief Safety Officer (or their

delegate) within 24 hours of the notification under paragraph (b)(1)(i) of this section.

(iii) As soon as practicable, upon receipt of stakeholders' notice of intent to participate in an investigation, FRA shall establish clear channels of communication with the identified stakeholders. These channels may include, but are not limited to, email correspondence, teleconferences, in-person meetings, and online forums.

(2) *On-site investigation.* (i) Stakeholders may only gain access to the accident site through the incident command or on-site railroad personnel. When investigations occur on railroad property, FRA encourages railroads to permit on-site access to stakeholders participating in FRA's investigation process and expects that railroads will grant such access. However, FRA cannot, at its own discretion, provide stakeholders' access to an accident site. If a railroad rule prohibits a stakeholder from accessing the accident site during FRA's on-site investigation, a railroad must promptly notify FRA in writing of any such rule, and FRA will subsequently communicate the substance of the rule to all affected stakeholders. In these instances, as practicable, FRA may consult with any affected stakeholder by other means (*e.g.,* through real-time participation in on-site meetings via video or conference call, off-site in-person meetings, virtual meetings, or phone calls).

(ii) Stakeholders are not actual or implied agents of FRA. FRA is not responsible for the safety of stakeholders.

(iii) FRA will initiate its on-site investigation when FRA staff arrive at an accident site, and the FRA investigation team will depart the accident site upon completion of FRA's on-site investigation activities. FRA will not wait for participating stakeholders to arrive at the accident site to begin its investigation, but FRA will make a reasonable effort to provide a stakeholder that does not arrive at the accident site during the investigation a verbal summary of the status of the investigation. As needed, FRA will advise stakeholder representatives when the FRA team expects to leave the accident site.

(iv) Each stakeholder representative participating in FRA's on-site investigation must contact the FRA Inspector-in-Charge (IIC) upon arrival at the accident site and provide photo identification to the IIC. At the time of a stakeholder's initial contact with the IIC, the IIC or other FRA representatives will provide the stakeholder with the name and contact information for the incident commander and other pertinent information related to the accident known to the IIC at the time. As needed, FRA's investigation team should coordinate meeting(s) with stakeholders and provide a verbal summary of the status of the investigation as stakeholders arrive to the accident site.

(3) *Off-site information gathering and investigative activities.* (i) When conducting accident/incident investigations under this paragraph, to the extent practicable, FRA will establish a means to receive and share documents and information with Stakeholders electronically. Any documents or information stakeholders submit to FRA's investigation team must be provided to FRA through such established system. With the exception of confidential information or documents or information appropriately submitted consistent with paragraph (4) of this section, FRA may share documents relevant to its investigation with Stakeholders.

(ii) Stakeholders may request meetings with representatives of other non-FRA stakeholders and request that FRA participate in such meetings. FRA participation is not guaranteed, and any information pertinent to the investigation made available through these meetings must be documented and submitted through the established electronic information sharing system.

(iii) Any stakeholder seeking to provide confidential information to FRA, or to maintain the confidentiality of such stakeholder's identity, must coordinate with the IIC prior to submittal of that information and submit the information to FRA in compliance with 49 CFR 209.11.

(4) *Analysis activities.* As appropriate, the FRA investigation team will consult with stakeholders to review the facts gathered during the team's investigation of the accident/incident, FRA's analysis of those facts, and FRA's inputs and outputs of root cause analyses. Stakeholders may offer input, raise concerns, and participate in discussions aimed at identifying root causes and potential recommendations to mitigate risk or prevent reoccurrence of the accident/incident. Stakeholders will not be included in FRA deliberations or consideration of potential compliance or enforcement issues related to an accident/incident investigation.

(5) *Confidentiality.* (i) FRA recognizes the sensitive nature of certain information involved in accident or incident investigations. In accordance with applicable laws and regulations, FRA will maintain as confidential any personally identifiable information or sensitive security information as defined in 2 CFR 200.1 and 49 CFR 1520.5, respectively. Any other documents or information a participating stakeholder provides to FRA as part of that stakeholder's participation in an accident/incident investigation under this section, and for which a stakeholder claims confidentiality, must be submitted in accordance with 49 CFR 209.11.

(ii) FRA shall maintain the confidentiality of any stakeholder if:

(A) such stakeholder requests confidentiality;

(B) such stakeholder was not involved in the accident or incident; and

(C) maintaining such stakeholder's confidentiality does not adversely affect an FRA investigation.

(iii) Until FRA publishes its report on the investigation, a stakeholder participating in an investigation may not disseminate any information or comment on an investigation to non-stakeholders through any means. Only when necessary for public safety, and only with the FRA Chief Safety Officer's written permission, may stakeholders release information to non-stakeholders if the information is factual, neutral and objective in tone, and without purported FRA characterization of the matter's contribution to the underlying accident/incident.

(6) *Whistleblower protections.* Nothing in this paragraph may be construed to reduce in any way the protections afforded to individuals who exercise the conduct protected by 49 CFR 225.33, *Internal Control Plans,* and 49 United States Code (U.S.C.) § 20109, *Federal Railroad Safety Act, Whistleblower Protections.*

Issued in Washington, DC.

Allison Ishihara Fultz,

Chief Counsel.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 217

[Docket No. 240524–0146]

RIN 0648–BL96

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the New England Wind Project, Offshore Massachusetts; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to a final rule. The document being corrected is the regulations governing the Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the New England Wind Project, Offshore Massachusetts, published on June 21, 2024.

DATES: Effective on March 27, 2025.

FOR FURTHER INFORMATION CONTACT: Karolyn Lock, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

NMFS published a final rule in the **Federal Register** on June 21, 2024 (89 FR 52222) announcing the promulgation of regulations governing the incidental take of marine mammals incidental to Avangrid Renewables, LLC's (Avangrid), construction of the New England Wind Project in Federal and State waters offshore Massachusetts, specifically within the Bureau of Ocean Energy Management (BOEM) Commercial Lease of Submerged Lands for Renewable Energy Development on the Outer Continental Shelf (OCS) Lease Areas (OCS–A 0534 and OCS–A 0561) and the southwest (SW) portion of Lease Area OCS–A 0501 (collectively referred to as the Lease Area), and along an export cable routes to sea-to-shore transition points (collectively, the Project Area), valid for 5 years from the date of effectiveness.

The regulations, which allow for the issuance of a Letter of Authorization to Avangrid for the incidental take of marine mammals during the specified activities within the specified geographical region during the effective dates of the regulations, prescribe the permissible methods of taking and other means of effecting the least practicable adverse impact on marine mammal species or stocks and their habitat, as well as requirements pertaining to the monitoring and reporting of such taking. NMFS refers the reader to the final rule (89 FR 52222, June 21, 2024) for background information concerning the regulations.

The following corrections are being made:

- The regulations contained an inconsistency between the headings for 50 CFR 217.325 wherein the heading in the table of contents did not agree with the text of the section, necessitating relabeling.
- 50 CFR 217.324(c)(15)(xiv) was promulgated twice (*i.e.,* two different measures were both designated as 50 CFR 217.324(c)(15)(xiv), necessitating renumbering).

Correction

Subpart GG [Corrected]

■ 1. In rule document 2024–12085 at 89 FR 52222 in the issue of June 21, 2024, on page 52301, in the first column, in the table of contents for Subpart GG, correct the entry for 50 CFR 217.325 to read as 50 CFR 217.325 Monitoring and reporting requirements.

§ 217.324 [Corrected]

■ 2. On page 52308, in the first column, the second paragraph (c)(15)(xiv) is corrected to read as follows: (xv) LOA Holder must conduct SFV measurements during turbine operations to estimate turbine operational source levels and transmission loss rates, in accordance with a NMFS-approved SFV Plan.

Dated: September 24, 2024.

Kimberly Damon-Randall,

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

[FR Doc. 2024–22307 Filed 9–30–24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240924–0251]

RIN 0648–BL45

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Amendment 23 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan

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

ACTION: Final rule.

SUMMARY: This action implements the approved trigger for the in-season closure accountability measure contained in Amendment 23 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. Amendment 23 was developed by the Mid-Atlantic Fishery Management Council in conjunction with the Atlantic States Marine Fisheries Commission to address the allocation-related impacts of the significant changes in the distribution of black sea bass that have occurred since the original allocations were implemented. This rule implements a measure that allows a buffer before triggering a closure to the coastwide commercial fishery to address negative economic impacts of coastwide closures on states that have not fully harvested their commercial black sea bass state allocations.

DATES: Effective January 1, 2025.

ADDRESSES: Copies of Amendment 23, including the Environmental Assessment, the Regulatory Impact Review, and the Regulatory Flexibility Analysis prepared in support of this action are available from Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 North State Street, Dover, DE 19901. The supporting documents are also accessible via the internet at: *https://www.mafmc.org/actions/bsb-commercial-allocation.*

FOR FURTHER INFORMATION CONTACT: Emily Keiley, Fishery Policy Analyst, (978) 281–9116, *emily.keiley@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Mid-Atlantic Fishery Management Council (Council) and the Atlantic States Marine Fisheries Commission (Commission) cooperatively manage the black sea bass fishery. Amendment 23 considered changes to the management of the commercial black sea bass fishery. Specifically, Amendment 23 considered:

1. Adjusting the commercial black sea bass state allocations;
2. Adding the state allocations and payback provisions to the Federal fishery management plan (FMP) and regulations; and,
3. Changes to the Federal in-season closure regulations for black sea bass.

The Council and the Commission's Black Sea Bass Board (Board) initially approved their respective amendment and addendum during a joint meeting on February 1, 2021. However, in response to a remand from the Commission's Policy Board, the two management bodies revisited their previous recommendations and voted to revise the commercial state quota allocations. A notice of availability (NOA) for the amendment was published in the **Federal Register** on May 4, 2023 (88 FR 28456), with a comment period ending on July 3, 2023. NMFS published a proposed rule in the **Federal Register** on May 15, 2023 (88

FR 30938), with a comment period ending on June 14, 2023.

When a Council approves and then transmits an FMP or amendment to NMFS, NMFS publishes an NOA in the **Federal Register** announcing a 60-day comment period. Within 30 days of the end of the comment period, NMFS must approve, disapprove, or partially approve the plan or amendment based on consistency with law. After considering public comment on the NOA and proposed rule, NMFS partially approved Amendment 23 on August 2, 2023. This final rule implements the approved management measure in Amendment 23 regarding the in-season closure trigger. The details of the development of the measures in Amendment 23 were described in the NOA and proposed rule, and are not repeated here.

Approved Measure

Federal Commercial In-Season Closure Trigger

Previously, the Federal FMP required a commercial coastwide in-season closure for all federally permitted vessels and dealers, regardless of state, once the coastwide quota was projected to be landed. This amendment changes the trigger so that the closure will occur once landings are projected to exceed the coastwide quota plus an additional buffer of up to 5 percent. The Council and Board will agree to the appropriate buffer and make a recommendation to NMFS for the upcoming year through the specifications process. The Council's Monitoring Committee and the Commission's Technical Committee would provide advice on the appropriate buffer based on considerations such as stock status, the quota level, and recent fishery trends.

This change is being implemented to help minimize the negative economic impacts of coastwide closures on states that have not fully harvested their allocations. It is not expected to create an incentive for quota overages because the Commission's Interstate FMP would still require states to close when their state-specific quotas are reached and to pay back quota overages.

Disapproved Measures

Our review of Amendment 23 concluded that the record supporting the Council's recommendations did not support a decision to approve incorporating the state-by-state allocations into the Federal FMP and regulations. By virtue of their reliance on the state allocations, the proposed state payback provisions and the state allocation formula were also disapproved. Specifically, NMFS concluded that the disapproved provisions of Amendment 23 are not consistent with:

- National Standard 4, which requires fishery conservation and management measures to avoid discrimination between residents of different states and to allocate or assign fishing privileges among various United States fishermen in a manner that is fair and equitable to all such fishermen, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges;
- National Standard 5, which requires that fishery conservation and management measures, where practicable, consider efficiency in the utilization of fishery resources and not have economic allocations as their sole purpose;
- National Standard 6, which requires fishery conservation and management measures to take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches; and
- National Standard 7, which requires fishery conservation and management measures, where practicable, to minimize costs and avoid unnecessary duplication.

Council Management of State Allocations

Amendment 23 proposed adding the commercial fishery state-by-state quota allocations to the Federal FMP and regulations. This change would have increased the administrative burden and cost of monitoring state quotas and processing state quota transfers for NMFS and the states, without providing a conservation benefit. Adding the allocations to the Federal FMP would have also required a joint action of the Council and Commission to make changes to the state-by-state allocations in the future.

Overages and State Payback Requirements

Under the Commission's Interstate FMP, overages of state-specific quotas are required to be paid back by a state when the coastwide quota has been exceeded. If the state allocations were included in the Federal FMP, the Council and Black Sea Bass Board's preferred alternative was to implement this payback provision in the Federal regulations. NMFS disapproved the incorporation of the state payback provision in the Federal FMP, as it is not necessary given our disapproval of incorporating the state allocations in the Federal FMP. However, the Commission's use of this payback process is not affected by our decision with regard to the Federal FMP.

Commercial State Allocation Formula

This joint action considered changes to the allocation formula for the distribution of commercial black sea bass quota among the states. The Commission adopted and implemented a new allocation formula in its Interstate FMP, and the Council recommended that NMFS approve and implement the same allocation approach in the Federal FMP. Because NMFS disapproved the state-by-state allocations as a measure in the Federal FMP and regulations, it is not necessary to incorporate an allocation formula in the Federal FMP, so it was also disapproved.

Comments and Responses

NMFS received 14 comments in response to the NOA and the proposed rule. Seven individuals submitted comments that were not germane to the alternatives in the proposed rule; their comments focused on state management measures, individual state allocations, the effects of offshore wind farms, and quotas. One individual commercial fisherman generally opposed the proposed amendment as making things more complicated and worse for fishermen. The comments relevant to the proposed action focused on five general topics regarding the addition of the state commercial allocations to the Federal FMP: The burden on NMFS and the affected state fishery management agencies; the perceived benefits of the action; the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act); encumbering the process to adjust allocations; and state representation issues, including addressing climate change.

Administrative Burden

Comment 1: Three commenters suggested that the administrative burden of adding the state allocations would be minor or would be mitigated by using processes developed for other fisheries. One commenter also suggested that this shift would reduce the burden on the Commission to manage state quotas.

Response: While NMFS does manage some species' commercial quotas (*e.g.,* summer flounder) at a state level, adding black sea bass state quota management would require additional resources (time and staff) to conduct all of the necessary tasks. Adding the state commercial allocations in the Federal FMP would require NMFS to monitor

the landings of commercial quotas at a state-by-state level—as opposed to overall coastwide landings—throughout the season, implement state closures when triggered, and manage all quota transfers between states. The increased workload on NMFS staff would reduce agency capacity for other priorities.

This change would also reduce efficiency by requiring the states to request transfers from NMFS in addition to the Commission and wait for NMFS's approval before the transfers are effective. This is not merely a shift in administrative burden. Rather, it increases the administrative burden for both NMFS and the states without eliminating the administrative burden for the Commission. The Commission is unlikely to end its practice of monitoring transfers and posting them on its website, so states would continue to bear the burden of the Commission's state management processes, along with the added requirement to submit transfer requests to NMFS. Comments from the Massachusetts Division of Marine Fisheries (MADMF) and the Rhode Island Department of Environmental Management (RIDEM) also noted these concerns (see *Comment 2*).

Comment 2: Comments from RIDEM and MADMF stated that including the state commercial black sea bass allocation in the Federal FMP would increase the administrative burden for NMFS and create additional complications for the states. MADMF noted that state and Federal closures for species such as bluefish and summer flounder have not always aligned. MADMF states that ''. . . Landings data and projections often differ between state and Federal monitoring, as does the time requirement for [MADMF] and NMFS to close a fishery. [MADMF's] frequent and direct outreach to dealers as quotas near full utilization generally allows for more accurate landings tallies and projections, which [MADMF] can respond to nimbly. [MADMF's] ability to close a fishery within 24 hours is not matched by NMFS.'' These differences can result in different closure dates and different impacts to state and Federal permit holders.

Response: NMFS agrees with these comments and has disapproved the addition of the commercial state black sea bass allocations to the Federal FMP.

Comment 3: One commenter highlighted that the restrictions on late-season transfers due to the Federal rulemaking process would have minimal impacts and would not justify disapproving the addition of the state allocations to the Federal FMP.

Response: The Commission currently allows transfers at any time up to 45 days after the last day of the fishing season. If NMFS were to manage transfers under the same process currently used for summer flounder and bluefish, transfers in the last 2 weeks of the year would only be allowed for unforeseeable circumstances such as vessel failure or bad weather. Post-season transfers would not be allowed. NMFS does not disagree that the impact of this particular restriction would be relatively small. However, the magnitude of this potential impact does not change our determination that adding the state allocations to the Federal FMP is inconsistent with the National Standards (see Disapproved Measures). This decision was based on a holistic review of the amendment and its consistency with the Magnuson-Stevens Act. It did not hinge on the impact of post-season transfer limitations.

Perceived Benefits

Comment 4: Four commenters disagreed with our statement that there is no clear benefit from adding the state allocations to the Federal FMP, arguing that this change provides a greater level of Federal oversight, protection, and accountability. They stated that any changes to the allocations would be made through the Council process, which is thorough, transparent, and bound by the Magnuson-Stevens Act, National Environmental Policy Act (NEPA), and other applicable laws. According to these comments, the Commission process does not always provide the same safeguards.

Response: The Council and Commission have successfully co-managed black sea bass quotas through a two-tiered system since 2003, with the state quotas managed through the Commission's Interstate FMP and the overall coastwide quota managed by the Council and NMFS. While the Interstate FMP is not bound by the Magnuson-Stevens Act and the Federal rulemaking process, the Commission process is not without its own legal requirements and safeguards. The Atlantic Coastal Fisheries Cooperative Management Act (Atlantic Coastal Act) requires the Commission to manage fisheries throughout their range based on the best available science and with adequate opportunity for public participation and to establish adequate standards and procedures to do so. In compliance with the Atlantic Coastal Act, the Commission process is bound by the ''Atlantic States Marine Fisheries Commission Compact and Rules and Regulations'' and ''Interstate Fishery Management Program Charter.'' Under the Charter, the Commission's management must meet conservation and equity requirements. When states believe a Commission decision has not met these requirements, the Commission provides a formal appeals process.

Further, the Council manages the Federal black sea bass fishery with all of the safeguards and requirements of the Magnuson-Stevens Act, NEPA, and other applicable laws. This includes oversight of the various catch limits designed to prevent overfishing, which are established through a joint process with the Commission. The coastwide commercial quota addresses the conservation requirements of the Magnuson-Stevens Act, and when state quota overages could result in a coastwide overage, NMFS has the authority to close the entire fishery to prevent overfishing. Duplication of the state commercial allocations in the Federal FMP will not further any conservation benefit because the allocations are already in place and successfully managed through the Interstate FMP and the Federal regulations and specifications process are sufficient to address coastwide overages.

Comment 5: One commenter argued, ''If this management plan remained within the [Commission], there would be no ability for any New York commercial fisherman to contest any portion of it by judicial review, because it is not considered an agency of the Federal government.'' The commenter believed including the state commercial allocations in the Federal FMP would allow better redress.

Response: While the Commission is not a Federal agency, it provides a venue for deciding issues of interstate fishery management with equal representation of all interested states. As noted in response to *Comment 4,* the Commission is guided by the ''Atlantic States Marine Fisheries Commission Compact and Rules and Regulations'' and ''Interstate Fishery Management Program Charter.'' States can appeal Commission decisions through a formal appeals process when the decision is inconsistent with the rules and regulations, the Charter, the Commission's other guiding documents, or the goals and objectives of the Interstate FMP; is based on insufficient technical information; or results in unforeseen impacts. The appeals process may result in corrective action, providing a process for redress for Commission decisions. The efficacy of this appeals process is demonstrated by New York's successful appeal of the

Commission's changes to the black sea bass state allocations, which resulted in an increase to New York's proportion of the black sea bass commercial quota. In addition, interested parties still have the option to contest Federal management measures developed through the joint management process described in response to *Comment 4* pursuant to the Magnuson-Stevens Act's judicial review provisions.

Comment 6: One commenter stated that adding the state commercial allocations to the Federal FMP would provide the benefit of bringing the allocations in line with ''most other aspects of the management program.''

Response: The Council and the Commission have successfully co-managed the black sea bass fishery for decades, as described in response to *Comment 4.*

Most aspects of the management program have implications for the coastwide fishery and are addressed in the Federal FMP. However, subdividing the coastwide commercial quota into state-specific allocations directly affects fishing opportunities at the state level and is an issue of interstate fishery management. The Commission provides a venue for interstate management decision-making with representation from all of the Atlantic states. States may join the management boards for any species in which they have an interest. Conversely, the Magnuson-Stevens Act determines state representation on the Council. As a result, the limited representation on the Council poses a challenge when making allocation decisions that directly affect the states. Continued changes in the stock distribution toward states that are not represented on the Council would exacerbate these challenges. Adding the allocations to the Federal FMP to make them consistent with other co-managed elements of the FMP would fail to recognize the unique, state-oriented nature of allocation decisions and the Commission's lead role in interstate fisheries management and would not further any conservation objective.

Future Allocation Decisions and the National Standard Requirements

Comment 7: Two commenters contended that the NOA speculates ''about future actions involving 'potentially inadequate consideration of northern states' fisheries' '' without evidence in the administrative record to support such speculation, particularly ''without providing any examples of actual present-day outcomes harming any particular state.'' These commenters go on to note that future allocations would need to meet the requirements of the Magnuson-Stevens Act, including the requirement under National Standards 4 and 6 (described under Disapproved Measures) and National Standard 8—that measures provide for the sustained participation of all fishing communities. The second of these commenters argued that the current commercial state allocations were agreed on by the Council and Board and reflect recent biomass proportions. The commenter did not understand how the same decision-making process could potentially result in unfair outcomes in the future because the Council and Board work together to achieve consensus on joint actions and differing decisions between the two bodies are rare.

Response: The commenters are correct that NMFS cannot approve any changes to the Federal FMP that do not meet the requirements of the National Standards. While NMFS has concerns that adding the state allocations to the Federal FMP would result in an inequitable allocation process because not all interested states are represented on the Council, NMFS did not disapprove the changes based on future decisions being inconsistent with the National Standards. NMFS disapproved the addition of the state allocations in the Federal FMP because that action lacked conservation benefits, reduced management efficiency, lacked adaptability to variations and contingencies, increased costs, and unnecessarily duplicated management measures, which is inconsistent with National Standards 4, 5, 6, and 7.

State Representation, Fairness, and Equity

Comment 8: MADMF agreed with NMFS that equity of representation is vitally important to the particular issue of state-by-state allocations. Its comment provided additional context and an example of how the vote to add the state allocations to the Federal FMP resulted in unequal representation among the states. After an initial motion was made and seconded by participants of both the Council and Board, a substitute motion not to add the state allocations to the Federal FMP was made and seconded by northern-state and NMFS representatives. The Council voted first, and the majority of Council members voted against the substitute motion. Without the Commission membership from New Hampshire through North Carolina being able to affirm their position, the substitute motion failed. The main motion received a passing vote from the Commission on a slim margin after the substitute motion failed in the Council vote and another option was not available. The Council and Commission voted along a geographical divide, with the northern states voting against the allocations in the Federal FMP. This illustrates that the limited representation on the Council by all states with an interest in the fishery poses a challenge when making state allocation decisions.

The Commission includes representation from all Atlantic states and provides an equitable process when making changes to commercial state allocations. MADMF asserted that the Commission, where every coastal state with an interest in a species is represented, is the more appropriate venue for determining state allocations.

Response: NMFS agrees that limited representation by all states in the Council poses a challenge in state allocation decisions and that the Commission, which includes representations from all Atlantic states, provides a more equitable process in commercial state allocations.

Comment 9: Two commenters asserted that the joint decision-making process is fair and equitable and that the states on the Council do not have a disproportionate role in the decision-making process. The commenters disagreed with the assertion that the lack of voting representation from the New England states on the Council creates ''inequity in representation'' in the joint decision-making process. These commenters believed that the special voting procedures and the broader representation on the Board make up for the lack of northern states' representation on the Council.

Response: A different comment letter from MADMF disputed these comments, as summarized in *Comment 8.* As one of the states in question and with authority on the matter, MADMF argued that the special voting procedures are not equivalent to full representation and that adding the state allocations to the Federal FMP would not result in an equitable allocation process. NMFS agrees with MADMF.

Comment 10: One commenter argued against concerns that the northern states' lack of representation on the Council has implications regarding the National Standard requirements and equity, stating that the Mid-Atlantic states lack representation on the New England Fishery Management Council and are regulated on groundfish, whiting, and scallops without representation. The commenter asserted that joint decision-making between the Council and the Commission, which represents all coastal states, has worked for other fisheries.

Response: NMFS agrees that co-management works here—the Council and the Commission successfully co-manage the black sea bass fishery. As previously described, the Council and Commission specifications processes establish annual coastwide catch limits and the Commission manages the commercial state allocations through the Interstate FMP because the state allocations have a direct impact on fishing opportunities at the state level. This co-management process provides equitable representation and greater flexibility because it does not require Council action in addition to Commission action to change the state allocations. This is particularly relevant in the black sea bass fishery, as it is foreseeable that black sea bass could become a commercially viable species as far north as Maine due to the ongoing and expected changes in the distribution of the black sea bass stock from the effects of climate change. The successful management of other species using different processes does not negate these facts nor the history of successful co-management of the black sea bass fishery. Furthermore, the fisheries referenced in the comment—groundfish, whiting, and scallops—are not managed with state-by-state quota allocations, but with a coastwide quota. This is consistent with the Federal management of the black sea bass fishery.

Comment 11: Three commenters argued that the Council should have a more substantive role in the allocation-setting process because the majority of commercial black sea bass landings come from Federal waters.

Response: The Council plays a significant role in black sea bass management, with coastwide management measures set in the Federal FMP through the Council process, as previously described. State quota allocations have a direct impact on fishing opportunities at the state level. Given the lack of northern state representation on the Council, the commercial quota state allocations are appropriately managed through the Commission's Interstate FMP. While adding the state allocations to the Federal FMP would not eliminate the Commission's role in the process, a comment letter from MADMF provides evidence that the special voting procedures used during joint decision-making do not necessarily result in equal representation of all states with commercial quota allocations, as described in *Comment 8.*

In addition, adding the state commercial quota allocations to the Federal FMP would then require NMFS to manage the state allocations, which would increase costs, reduce efficiency, and add complexity, as described throughout the comments and responses. The Commission's equal representation of all impacted states and the increased efficiency, timeliness, and reduced administrative burden for in-season monitoring activities support maintaining the Commission's primary role in this aspect of black sea bass management, with the Council maintaining the lead role in coastwide management.

Climate Impacts

Comment 12: One commenter contended that climate concerns are not unique to the black sea bass fishery and the Council manages other fisheries with changing distributions and geographic ranges beyond its member states. It noted that the Council is required to manage stocks as a unit throughout their range to the extent practicable under National Standard 3. The commenter was not aware of any provision under the Magnuson-Stevens Act or other applicable laws that would preclude the incorporation of state allocations in the Council FMP.

Response: While climate impacts are a concern for a number of fisheries, this action considers the management of black sea bass. Under the requirements of National Standard 3, the Council is required to manage the black sea bass stock as a unit throughout its range and does so when it sets coastwide management measures under the Federal FMP. These coastwide limits, including the commercial quota, satisfy the requirements of National Standard 3. However, inconsistencies with the requirements under National Standards 4, 5, 6, and 7 do preclude the addition of the state allocations to the Federal FMP. These inconsistencies are described under Disapproved Measures and throughout the comments and responses in this document.

Comment 13: One commenter claimed that formalizing the Council's role in the state commercial allocation-setting process would increase the Council's adaptive capacity and ability to respond to changes in the black sea bass fishery efficiently, thus supporting the goal of building resilient, climate-ready fisheries.

Response: Amendment 23 does not identify how duplicating the state commercial allocations in the Federal FMP and regulations and requiring the Council and Federal rulemaking processes to change the state commercial allocations would increase adaptive capacity, efficiency, or responsiveness in black sea bass management. According to the National Standard Guidelines at § 600.335(d), unpredictable events, such as unexpected climatic conditions or resource surges or failures, are best handled by establishing a flexible management regime that contains a range of management options through which it is possible to act quickly without amending the FMP or even its regulations. The current system of managing state commercial allocations through the Commission's Interstate FMP provides an efficient, responsive, and equitable process that does not require amending the FMP or regulations.

Continued changes in the stock distribution would exacerbate the already challenging allocation deliberations of the Council if the state allocations were added to the Federal FMP. Rapid changes and increased uncertainties in stock distribution, particularly in response to the effects of climate change, highlight the need for a flexible and responsive management system. Because the proposed measure to incorporate state-by-state quota allocations into the Federal FMP and regulations would create a less flexible and less responsive management system than the status quo, NMFS finds this aspect of Amendment 23 to be inconsistent with National Standard 6.

Comment 14: Three commenters agreed with NMFS that climate change and the shifting distribution of the stock exacerbate concerns regarding unequal representation. MADMF stated that every state with an interest in a species is represented on the Commission and moving the state commercial allocation to the Council FMP would uproot ''the northern states' equal footing inherent'' in the Commission process. It went on to say, ''The mid-Atlantic states feel no similar repercussions from maintaining the allocations solely in the interstate plan; they are well represented by their delegates to the [Commission]. As the Council letter points out, this is the first time the allocations have been revised in the [Commission] plan since their original implementation in 2003, demonstrating that the [Commission] member states do not take the matter lightly. While distinct, the [Commission] processes are equally transparent, robust, and deliberative as the Council's.''

MADMF also noted that regional climate change scenario planning efforts, supported by the Council, have included consideration of more joint management and greater flexibility as stocks shift. Another commenter echoed MADMF's concerns regarding equity and adaptability in the face of shifting

stocks and suggested that the allocations should be managed solely by the Commission or jointly by the Mid-Atlantic and New England Councils.

Response: NMFS agrees that the Commission should retain management of the state commercial allocations to ensure an equitable process and have disapproved the addition of the commercial state black sea bass allocations into the Federal FMP.

General Comments

Comment 15: MADMF fully supported NMFS' rationale, as provided in 88 FR 28456 (May 4, 2023), for disapproving the addition of the commercial black sea bass state allocations into the Federal FMP.

Response: NMFS agrees and has disapproved the addition of the commercial state black sea bass allocations into the Federal FMP.

Comment 16: One commenter stated that NMFS' proposal will complicate things for fishermen and black sea bass issues should have been addressed two decades ago.

Response: NMFS agrees that duplicating the state allocations in the Federal FMP would create a more complicated process for black sea bass fishermen and have disapproved this measure.

Changes From the Proposed Rule

The proposed rule included all of the Council's recommended changes to the FMP and proposed implementing regulations deemed necessary by the Council. As described above, NMFS has determined that the adjustment to the process for setting the state allocations and the addition of the state allocations and payback provisions to the Council's (Federal) FMP were inconsistent with the National Standards and disapproved those measures. The final rule only implements the proposed change to the commercial in-season closure trigger, and removes the disapproved measures that were in the proposed rule's regulatory text.

Classification

Pursuant to section 304(b)(3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 24, 2024.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS amends 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.142, revise paragraph (a) introductory text and add paragraph (a)(15) to read as follows:

§ 648.142 Black sea bass specifications.

(a) *Specifications.* Commercial quota, recreational landing limit, research set-aside, and other specification measures. The Monitoring Committee will recommend to the MAFMC and the ASMFC, through the specification process, for use in conjunction with the ACL and ACT, sector-specific research set-asides, estimates of the sector-related discards, a recreational harvest limit, a commercial quota, along with other measures, as needed, that are projected to prevent overages of the applicable specified limits or targets for each sector as prescribed in the FMP. The following measures are to be considered by the Monitoring Committee:

* * * * *

(15) A commercial quota overage buffer, of up to 5 percent, that would be used to determine when a Federal in-season closure would be triggered.

* * * * *

■ 3. In § 648.143, revise paragraph (a) introductory text to read as follows:

§ 648.143 Black sea bass accountability measures.

(a) *Commercial sector fishery closure.* The Regional Administrator will monitor the harvest of commercial quota based on dealer reports, state data, and other available information. All black sea bass landed for sale in the states from North Carolina through Maine by a vessel with a moratorium permit issued under § 648.4(a)(7) shall be applied against the commercial annual coastwide quota, regardless of where the black sea bass were harvested. All black sea bass harvested north of 35°15.3′ N. lat., and landed for sale in the states from North Carolina through Maine by any vessel without a moratorium permit and fishing exclusively in state waters, will be counted against the quota by the state in which it is landed, pursuant to the FMP for the black sea bass fishery adopted by the ASMFC. The Regional Administrator will determine the date on which the annual coastwide quota, plus a buffer up to 5 percent as specified in the annual specifications, is projected to be harvested; and beginning on that date and through the end of the calendar year, the EEZ north of 35°15.3′ N lat. will be closed to the possession of black sea bass. The Regional Administrator will publish a notification in the **Federal Register** advising that, upon and after that date, no vessel may possess black sea bass in the EEZ north of 35°15.3′ N lat. during a closure, nor may vessels issued a moratorium permit land black sea bass during the closure. Individual states will have the responsibility to close their ports to commercial landings of black sea bass during a closure, pursuant to the FMP for the black sea bass fishery adopted by the ASMFC.

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[FR Doc. 2024–22233 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240304–0068; RTID 0648–XE302]

Fisheries of the Exclusive Economic Zone off Alaska; Several Groundfish Species 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; apportionment of reserves; request for comments.

SUMMARY: NMFS apportions amounts of the non-specified reserve to the initial total allowable catch (ITAC) of Bering Sea (BS) ''other rockfish'', BS Pacific ocean perch, Bering Sea and Aleutian Islands (BSAI) Kamchatka flounder, and BSAI skates. This action is necessary to allow the fisheries to continue operating. It is intended to promote the goals and objectives of the fishery management plan for the BSAI management area.

DATES: Effective September 30, 2024, through 2400 hours, Alaska local time, December 31, 2024. Comments must be received at the following address no later than 4:30 p.m., Alaska local time, October 15, 2024.

ADDRESSES: You may submit comments on this document, identified by docket number NOAA–NMFS–2023–0124, by any 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–2023–0124 in the Search box. 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. 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, *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).

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the BSAI 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 ITAC of BS ''other rockfish was established as 748 metric tons (mt), the 2024 ITAC of BS Pacific ocean perch was established as 9,891 metric tons mt, the 2024 ITAC of BSAI Kamchatka flounder was established as 6,373 mt, and the 2023 ITAC of BSAI skates was established as 25,941 mt, by the final 2024 and 2025 harvest specifications for groundfish of the BSAI (89 FR 17287, March 11, 2024). In accordance with § 679.20(a)(3) the Regional Administrator, Alaska Region, NMFS, has reviewed the most current available data and finds that the ITACs for BS ''other rockfish,'' BS Pacific ocean perch, BSAI Kamchatka flounder, and BSAI skates need to be supplemented from the non-specified reserve to promote efficiency in the utilization of fishery resources in the BSAI and allow fishing operations to continue.

Therefore, in accordance with § 679.20(b)(3), NMFS apportions from the non-specified reserve of groundfish to ITACs in the BSAI management area as follows: 132 mt to BS ''other rockfish,'' 1,745 mt to BS Pacific ocean perch, 1,125 mt to BSAI Kamchatka flounder, and 4,578 mt to BSAI skates. These apportionments are consistent with § 679.20(b)(1)(i) and do not result in overfishing of any target species because the revised ITACs and total allowable catches (TACs) are equal to or less than the specifications of the acceptable biological catch in the final 2024 and 2025 harvest specifications for groundfish in the BSAI (89 FR 17287, March 11, 2024).

The harvest specification for the 2024 ITACs and TACs included in the harvest specifications for groundfish in the BSAI are revised as follows 880 mt for BS ''other rockfish,'' 11,636 mt for BS Pacific ocean perch, 7,498 mt for BSAI Kamchatka flounder, and 30,519 mt for BSAI skates.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the apportionment of the non-specified reserves of groundfish to BS ''other rockfish,'' BS Pacific ocean perch, BSAI Kamchatka flounder, and BSAI skates NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 13, 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.

Under § 679.20(b)(3)(iii), interested persons are invited to submit written comments on this action (see **ADDRESSES** section) until October 15, 2024.

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

Dated: September 26, 2024.

Karen H. Abrams,

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

[FR Doc. 2024–22518 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 89, No. 190
Tuesday, October 1, 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.

FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1227

RIN 2590–AB23

Suspended Counterparty Program

AGENCY: Federal Housing Finance Agency.

ACTION: Proposed rule.

SUMMARY: On July 21, 2023, the Federal Housing Finance Agency (FHFA) published a proposed rule to amend its Suspended Counterparty Program (SCP) regulation by expanding the categories of covered misconduct on which a suspension could be based to include sanctions arising from certain forms of civil enforcement. After reviewing the comments and reconsidering the proposed rule's substantive and procedural amendments, FHFA has determined that a number of material changes to the rule are necessary. Therefore, it is publishing this second proposed rule.

DATES: Written comments must be received on or before December 2, 2024.

ADDRESSES: You may submit your comments, identified by regulatory information number (RIN) 2590–AB23, by any of the following methods:

- *Agency Website: https://www.fhfa.gov/regulation/federal-register?comments=open.*
- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. If you submit your comment to the Federal eRulemaking Portal, please also send it by email to FHFA at *RegComments@fhfa.gov* to ensure timely receipt by FHFA. Include the following information in the subject line of your submission: Comments/RIN 2590–AB23.
- *Hand Delivered/Courier:* The hand delivery address is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB23, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Deliver the package at the Seventh Street entrance Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.
- *U.S. Mail, United Parcel Service, Federal Express, or Other Mail Service:* The mailing address for comments is: Clinton Jones, General Counsel, Attention: Comments/RIN 2590–AB23, Federal Housing Finance Agency, 400 Seventh Street SW, Washington, DC 20219. Please note that all mail sent to FHFA via U.S. Mail is routed through a national irradiation facility, a process that may delay delivery by approximately two weeks. For any time-sensitive correspondence, please plan accordingly.

FOR FURTHER INFORMATION CONTACT: Karen Heidel, Assistant General Counsel, Office of General Counsel, *Karen.Heidel@fhfa.gov,* (202) 738–7753; or Joseph Germany, Honors Counsel, Office of General Counsel, *Joseph.Germany@fhfa.gov,* (202) 649–3643. These are not toll-free numbers. For TTY/TRS users with hearing and speech disabilities, dial 711 and ask to be connected to any of the contact numbers above.

SUPPLEMENTARY INFORMATION:

I. Comments

FHFA invites comments on all aspects of this second proposed rule, and will take all comments into consideration before issuing a final rule. Comments will be posted to the electronic rulemaking docket on the FHFA public website at *http://www.fhfa.gov,* except as described below. Commenters should submit only information that the commenter wishes to make available publicly. FHFA may post only a single representative example of identical or substantially identical comments, and in such cases will generally identify the number of identical or substantially identical comments represented by the posted example. FHFA may, in its discretion, redact or refrain from posting all or any portion of any comment that contains content that is obscene, vulgar, profane, or threatens harm. All comments, including those that are redacted or not posted, will be retained in their original form in FHFA's internal rulemaking file and considered as required by all applicable laws. Commenters that would like FHFA to consider any portion of their comment exempt from disclosure on the basis that it contains trade secrets, or financial, confidential or proprietary data or information, should follow the procedures in section IV.D. of FHFA's *Policy on Communications with Outside Parties in Connection with FHFA Rulemakings, see https://www.fhfa.gov/sites/default/files/documents/Ex-Parte-Communications-Public-Policy_3-5-19.pdf.* FHFA cannot guarantee that such data or information, or the identity of the commenter, will remain confidential if disclosure is sought pursuant to an applicable statute or regulation. *See* 12 CFR 1202.8, 12 CFR 1214.2, and FHFA's FOIA Reference Guide *https://www.fhfa.gov/about/foia-reference-guide* for additional information.

II. Background

A. The SCP Regulation

The SCP requires a regulated entity—the Federal Home Loan Mortgage Corporation (Freddie Mac) and any affiliate thereof, the Federal National Mortgage Association (Fannie Mae) and any affiliate thereof (individually, an Enterprise and together, the Enterprises), and any Federal Home Loan Bank (Bank) (hereinafter the Enterprises and Banks are collectively referred to as the regulated entities)—to submit a report to FHFA if it becomes aware that an individual or institution with which it does business has been found within the past three years to have committed certain forms of misconduct. FHFA may issue proposed and final suspension orders based on the reports it has received from the regulated entities or based on other information. FHFA offers the affected individual or institution and the regulated entities an opportunity to respond to any proposed suspension order. FHFA may issue a final suspension order if FHFA determines that the underlying misconduct is of a type that would be likely to cause significant financial or reputational harm to a regulated entity. Final suspension orders direct the regulated entities to cease or refrain from doing business with the suspended counterparties, subject to terms as provided in the orders.

The reporting that is required under the SCP regulation is authorized by sections 1313, 1313B, and 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (Safety and Soundness Act).

Section 1314(a) of the Safety and Soundness Act authorizes FHFA to require the regulated entities to submit regular reports on their activities and operations, as the Director considers appropriate. *See* 12 U.S.C. 4513, 4514b, and 4514(a).

The orders issued under the SCP regulation fall within FHFA's general supervisory authority over the regulated entities, specifically its authority under sections 1313, 1313B, and 1319G of the Safety and Soundness Act. Section 1313B of the Safety and Soundness Act authorizes FHFA to establish standards, by regulation or guideline, for each regulated entity regarding prudential management of risks. *See* 12 U.S.C. 4513b. The Director may also require by order that the regulated entities take any action that will best carry out the purposes of that section. *See* 12 U.S.C. 4513(b)(2)(B)(iii). Section 1319G(a) of the Safety and Soundness Act authorizes FHFA to issue any regulations, guidelines, or orders necessary to ensure that the purposes of the Safety and Soundness Act and the Enterprise charter acts are accomplished. *See* 12 U.S.C. 4526(a). Finally, section 1313(a)(2) of the Safety and Soundness Act authorizes FHFA to exercise such incidental powers as may be necessary in the supervision and regulation of each regulated entity. *See* 12 U.S.C. 4513(a)(2).

FHFA established the SCP regulation in June 2012 by letter to the regulated entities. The requirements and procedures for the SCP regulation were generally codified at 12 CFR part 1227 by the interim final rule.[1] FHFA amended the SCP regulation via final rule.[2] The SCP does not replace or relieve the regulated entities' duties and responsibilities to manage their operations in a safe and sound manner. Each regulated entity must adopt and implement prudent measures to identify areas where fraud or financial misconduct may present a risk to the regulated entity and take all appropriate measures to address any such risks.[3] These measures include establishing third-party provider contractual relationships which can be terminated by the regulated entity for cause.

B. The First Proposed Rule

On July 21, 2023, FHFA published in the **Federal Register** a proposed rule (first proposed rule) to amend the SCP regulation by including certain orders or judgments in civil matters under the definition of ''conviction'' at § 1227.2 and by adding new §§ 1227.11 and 1227.12, which would have created a process for imposing immediate suspensions and a procedure for requesting their vacation. The first proposed rule would have expanded the categories of covered misconduct on which a suspension could be based to include sanctions arising from certain forms of civil enforcement. Additionally, the first proposed rule would have added ''knowingly committed a material breach of contract'' to the definition of ''conviction'' in addition to the offenses enumerated in the definition of ''covered misconduct.'' Finally, where a suspension was based on an administrative sanction, the first proposed rule also would have eliminated the requirement that a final suspension order be preceded by a proposed suspension order. The 60-day comment period closed on September 19, 2023.[4]

FHFA received eleven unique comment letters in response to the first proposed rule. Seven of the comment letters expressed strong opposition to the proposed rule. Six of these commenters expressed concern with the substantive changes in the first proposed rule: that it was overly broad; granted FHFA with undue discretion; and risked capture of relatively minor misconduct that would not pose a risk to the regulated entities' safety and soundness. Six commenters expressed concern with the due process implications of the proposed rule's authorization of immediate suspension in certain circumstances.

Four commenters expressed support for the first proposed rule. These commenters supported the expansion of the definition of covered misconduct. Commenters in support of the rule viewed the expanded definition as increasing accountability and suggested that further expansion would be beneficial. However, two of these commenters still urged FHFA to clarify what types of misconduct would give rise to suspension under the first proposed rule. One commenter supported the first proposed rule's elimination of the requirement for a proposed suspension where the suspension was based upon administrative sanctions, due to the administrative burden imposed by the proposed suspension requirement.

III. The Second Proposed Rule

Following the close of the comment period on the first proposed rule, FHFA reviewed all of the comments received and considered the issues raised by the commenters, including how to capture misconduct posing a risk to the regulated entities' safety and soundness while excluding relatively *de minimis* actions. As a result, FHFA concluded that the current requirement for a proposed suspension should be retained in all cases instead of authorizing immediate suspension in certain cases. FHFA also determined that the substantive changes to the rule should be more narrowly tailored, both to provide greater clarity and to avoid capture of relatively minor misconduct that does not pose a risk to the safety and soundness of the regulated entities. FHFA believes that these changes represent a significant enough departure from the approach taken in the first proposed rule to warrant the publication of this second proposed rule, which supersedes the first proposed rule.

In this second proposed rule, no changes would be made to the current regulation's procedural requirement that a proposed suspension is first issued, maintaining counterparties' ability to respond prior to the issuance of a final suspension. Substantively, under the second proposed rule, covered misconduct would include prohibition orders and civil monetary penalty orders as defined. However, the scope of those additions would be limited to capture only orders from certain Federal agencies and, where applicable, above a numerical threshold. Specific comments, FHFA's responses, and differences between the first and second proposed rules are described in greater detail below in the sections describing the relevant rule provisions.

As a result of these changes, the second proposed rule is organized differently. Under the second proposed rule, the definition of ''conviction'' remains unchanged. Instead, the definition of ''covered misconduct'' would be amended to include the additional bases of ''prohibition order'' and ''civil monetary penalty order.'' Separate definitions for both of those terms are provided under the proposed amendments to § 1227.2. The definition of ''covered misconduct'' would also be amended to include breach of contract actions in civil monetary penalty orders, unlike the first proposed rule in which it would have appeared under the definition of ''conviction.'' FHFA believes that these organizational changes and definitions will better fulfill the purposes of the SCP regulation by tailoring the scope of captured misconduct more narrowly to the SCP's safety and soundness purpose.

[1] 78 FR 63007 (Oct. 23, 2013).

[2] 80 FR 79675 (Dec. 23, 2015).

[3] *See* 78 FR 63007, 63008 (2013).

[4] *See* 88 FR 47077 (July 21, 2023).

A. Covered Misconduct

The first proposed rule would have amended the definition of ''conviction'' in § 1227.2 to include ''[a]n order or judgment by a Federal or state agency or court in a civil matter to which a Federal or state agency or government, or private citizen asserting claims on behalf of the government, is a party, constituting or including a finding that the respondent committed one of the offenses enumerated in the definition of 'covered misconduct' or knowingly committed a material breach of contract, or any other resolution that is the functional equivalent of such a judgment or order, such as a consent order, regardless of whether it includes any admission of misconduct.''

Six commenters specifically opposed these proposed substantive changes, while four either supported the substantive changes or encouraged greater expansion. Commenters in opposition to the proposed substantive changes expressed concern that relatively minor misconduct would be captured under the first proposed rule. Four commenters opposed the amount of discretion that would be given to FHFA in determining what forms of misconduct fell within the scope of the first proposed rule. Commenters also expressed concern that the first proposed rule's substantive changes were overly broad.

Based upon the comments received and internal discussion, FHFA reconsidered the changes to the definition of ''conviction'' in the first proposed rule, and determined that the changes in the second proposed rule would achieve FHFA's goal of capturing misconduct that poses a risk to the safety and soundness of the regulated entities, while avoiding capture of relatively minor misconduct. Commenters also expressed a desire for greater clarity as to what misconduct would be captured under the first proposed rule. Under the new approach, rather than amending the definition of ''conviction,'' the definition of ''covered misconduct'' would be amended to include new terms ''prohibition order'' and ''civil monetary penalty order.'' In response to the comments requesting greater clarity, definitions for each new term would be provided under § 1227.2.

Under this second proposed rule, a ''prohibition order'' would be defined to include only orders issued by the enumerated Federal agencies having the effect of prohibiting a person from participating in the affairs of an institution or market or in mortgage- or real estate-related activities, as applicable, overseen by such agencies.[5] Likewise, ''civil monetary penalty order'' would refer only to an order by one of three Federal agencies, the U.S. Department of Housing and Urban Development, U.S. Department of Agriculture, or U.S. Department of Veterans Affairs, where the agency had imposed a civil monetary penalty of at least $1,000,000.

Similarly, the first proposed rule's amendment to the definition of ''conviction'' to include knowing, material, breach of contract actions has been removed. Instead, the second proposed rule would amend the definition of ''covered misconduct'' to include breach of contract actions, but only with respect to civil monetary penalty orders. Additionally, the first proposed rule would have amended the definition of ''covered misconduct'' to include misconduct in connection with the management or ownership of real property. This second proposed rule retains this amendment. As discussed in the preamble to the first rule, real property management and real property ownership both demonstrate potential risk to the regulated entities and are significant functions performed by certain regulated entity counterparties, especially those participating in Enterprise multifamily loan transactions.

One commenter expressed support for this amendment, reasoning that failing to suspend beneficiaries of financing who commit fraud related to property management or ownership would pose a major risk to the safety and soundness of the Enterprises. Two commenters expressed specific opposition to this amendment in the first proposed rule, with one stating that the proposed amendment lacked any limiting standard. FHFA believes that the proposed amendments elsewhere in the second proposed rule are responsive in providing sufficient limiting standards, such as the $1,000,000 threshold set forth in the definition of ''civil monetary penalty order.''

B. Immediate Suspension Orders

The current SCP regulation establishes a series of procedures governing the issuance of a final order of suspension. Under the current SCP regulation, FHFA must first issue a proposed order of suspension and provide the relevant counterparty and each regulated entity an opportunity to respond. Only after the response period does the regulation authorize issuance of a final suspension order, and any such suspension order may not be effective sooner than 45 days after signature by the suspending official.

Under the first proposed rule, the SCP regulation would have been amended to add § 1227.11, giving FHFA the ability to issue immediate suspension orders where the basis of the covered misconduct was an administrative sanction. Additionally, the proposed rule would have created § 1227.12, granting counterparties the corresponding right to request FHFA to vacate such an order. In the first proposed rule, FHFA reasoned that another Federal agency's conclusion to limit a counterparty's right to do business with the government warranted particular deference, and that issuance of immediate suspension efforts in such situations would avoid excessive delay.

FHFA received seven comments specifically opposing the proposed addition of immediate suspension orders. Several of those comments emphasized the due process concerns implicated by immediate suspension orders. One commenter stated that the proposed rule was unclear as to how immediate suspensions would be applied to a counterparty's affiliates. Other commenters stated that admissions of guilt could be absent from an administrative action, creating additional due process concerns. Only one commenter expressed support for elimination of the requirement for a proposed suspension order where suspension is based on an administrative sanction, reasoning that it would be a reasonable and efficient way to streamline the suspension process.

In the process of developing a final rule, FHFA considered the objections raised to the procedural changes contemplated in the first proposed rule and ultimately decided to retain the current procedure. Accordingly, the first proposed rule's addition of §§ 1227.11 and 1227.12 are not included as part of this second proposed rule.

C. Section-by-Section Analysis

1. § 1227.2 Definitions

As in the first proposed rule, § 1227.2 of this second proposed rule sets forth a definition for ''covered misconduct.'' As noted, the first proposed rule would have amended the definition of ''conviction'' to include an order or

[5] The enumerated Federal agencies are the Board of Governors of the Federal Reserve System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), National Credit Union Administration (NCUA), Consumer Financial Protection Bureau (CFPB), Securities and Exchange Commission (SEC), and Commodity Futures Trading Commission (CFTC).

judgment by a Federal or state agency or court in a civil matter to which a Federal or state agency or government, or private citizen asserting claims on behalf of the government, is a party, constituting or including a finding that the respondent committed one of the offenses enumerated in the definition of ''covered misconduct'' or knowingly committed a material breach of contract, or any other resolution that is the functional equivalent of such a judgment or order, such as a consent order, regardless of whether it includes any admission of misconduct. It would also have amended the definition of ''covered misconduct'' to include misconduct in connection with the management or ownership of real property.

For the reasons discussed above in section III.A, this second proposed rule would not amend the definition of ''conviction.'' Instead, this second proposed rule would amend paragraph (1) of the definition of ''covered misconduct'' to read ''[a]ny conviction, prohibition order, civil monetary penalty order, or administrative sanction within the past three (3) years if the basis of such action involved fraud, embezzlement, theft, conversion, forgery, bribery, perjury, making false statements or claims, tax evasion, obstruction of justice, or any similar offense, or, with respect to a civil monetary penalty order only, breach of contract, in each case in connection with a mortgage, mortgage business, mortgage securities or other lending product, or ownership or management of real property.''

Additionally, the second proposed rule would amend § 1227.2 to add ''civil monetary penalty order,'' defined as ''[a]ny order issued by the U.S. Department of Housing and Urban Development, U.S. Department of Agriculture, or U.S. Department of Veterans Affairs, pursuant to the relevant Federal agency's authority to impose civil monetary penalties, that requires a person to pay an amount no less than $1,000,000.''

Finally, the second proposed rule would amend § 1227.2 to add ''prohibition order,'' defined as any order issued by:

1. The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, or the National Credit Union Administration that has the effect of prohibiting a person from participating in the affairs of any institution for which the Federal agency has supervisory authority;

2. The Consumer Financial Protection Bureau that has the effect of prohibiting a person from participating in mortgage- or real estate-related activities; or

3. The Securities and Exchange Commission or the Commodity Futures Trading Commission, or a judicial authority, that has the effect of prohibiting a person from participating in the relevant regulated market overseen by the Federal agency.

2. § 1227.11 Immediate Suspension Order and § 1227.12 Request To Vacate

The first proposed rule would have amended the SCP regulation to create § 1227.11, allowing for immediate suspensions under certain circumstances, and § 1227.12, creating procedures to provide respondents the opportunity to request vacation of an immediate suspension. For the reasons described above, the second proposed rule makes no changes to the current procedure for requiring proposed suspensions prior to issuance of a final suspension. Accordingly, neither amendment is included in the second proposed rule.

3. Miscellaneous Provisions

The first proposed rule would have amended § 1227.6(a) to specify that a final suspension order may be issued only if preceded by a proposed suspension order, pursuant to the requirements of § 1227.5. Despite this requirement already being implicit within the SCP regulation, FHFA believed that amendment was appropriate in light of the proposed addition of immediate suspensions. Further, the first proposed rule would have made a series of revisions to include reference to immediate suspension orders. However, as this second proposed rule would not add immediate suspension orders, these amendments are no longer warranted and thus are not proposed.

IV. Consideration of Differences Between the Banks and the Enterprises

Section 1313(f) of the Safety and Soundness Act requires FHFA, when promulgating regulations relating to the Banks, to consider the differences between the Enterprises and the Banks with respect to the Banks' cooperative ownership structure; mission of providing liquidity to members; affordable housing and community development mission; capital structure; joint and several liability; and any other differences FHFA considers appropriate.[6] In preparing this second proposed rule, FHFA considered the differences between the Banks and the Enterprises as they relate to the above factors, and determined that the second proposed rule is appropriate. No commenters raised any issues relating to this statutory requirement as applied to the first proposed rule.

[6] *See* 12 U.S.C. 4513(f).

V. Paperwork Reduction Act

The second proposed rule does not contain any information collection requirement that requires the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Therefore, FHFA has not submitted any information to OMB for review.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a regulation that has a significant economic impact on a substantial number of small entities, small businesses, or small organizations must include an initial regulatory flexibility analysis describing the regulation's impact on small entities. FHFA need not undertake such an analysis if the agency has certified that the regulation will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)). FHFA has considered the impact of the second proposed rule under the Regulatory Flexibility Act. FHFA certifies that the second proposed rule, if adopted as a final rule, would not have a significant economic impact on a substantial number of small entities because the second proposed rule is applicable only to the regulated entities, which are not small entities for purposes of the Regulatory Flexibility Act.

VII. Providing Accountability Through Transparency Act of 2023

The Providing Accountability Through Transparency Act of 2023 (5 U.S.C. 553(b)(4)) requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website under section 206(d) of the E-Government Act of 2002 (44 U.S.C. 3501 note) (commonly known as *regulations.gov*). The proposal and the required summary can be found at *www.regulations.gov.*

List of Subjects in 12 CFR Part 1227

Administrative practice and procedure, Federal home loan banks, Government-sponsored enterprises, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, FHFA proposes to amend

part 1227 of chapter XII of title 12 of the Code of Federal Regulations as follows:

PART 1227—SUSPENDED COUNTERPARTY PROGRAM

■ 1. The authority citation for part 1227 continues to read as follows:

Authority: 12 U.S.C. 4513, 4513b, 4514, 4526.

■ 2. Amend § 1227.2 by:
■ a. Adding the definition of ''Civil monetary penalty'' in alphabetical order;
■ b. Revising the definition of ''Covered misconduct'';
■ c. Adding the definition of ''Prohibition order'' in alphabetical order.

The additions and revisions read as follows:

§ 1227.2 Definitions.

* * * * *

Civil monetary penalty order means any order issued by the U.S. Department of Housing and Urban Development, U.S. Department of Agriculture, or U.S. Department of Veterans Affairs, pursuant to the relevant Federal agency's authority to impose civil monetary penalties, that requires a person to pay an amount no less than $1,000,000.

* * * * *

Covered misconduct means:

(1) Any conviction, prohibition order, civil monetary penalty order, or administrative sanction within the past three (3) years if the basis of such action involved fraud, embezzlement, theft, conversion, forgery, bribery, perjury, making false statements or claims, tax evasion, obstruction of justice, or any similar offense, or, with respect to a civil monetary penalty order only, breach of contract, in each case in connection with a mortgage, mortgage business, mortgage securities or other lending product, or ownership or management of real property.

* * * * *

Prohibition order means any order issued by:

(1) The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, or the National Credit Union Administration that has the effect of prohibiting a person from participating in the affairs of any institution for which the Federal agency has supervisory authority;

(2) The Consumer Financial Protection Bureau that has the effect of prohibiting a person from participating in mortgage- or real estate-related activities; or

(3) The Securities and Exchange Commission or the Commodity Futures Trading Commission, or a judicial authority, that has the effect of prohibiting a person from participating in the relevant regulated market overseen by the Federal agency.

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Sandra L. Thompson,

Director, Federal Housing Finance Agency.

[FR Doc. 2024–22393 Filed 9–30–24; 8:45 am]

BILLING CODE 8070–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2024–2323; Project Identifier MCAI–2024–00171–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 supersede Airworthiness Directive (AD) 2022–22–10, which applies to certain Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2022–22–10 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2022–22–10, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require certain actions in AD 2022–22–10 and would require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, 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 15, 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–2024–2323; 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* under Docket No. FAA–2024–2323.
- 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: Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone 206–231–3367; email: *timothy.p.dowling@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–2024–2323; Project Identifier MCAI–2024–00171–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,* 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 Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3367; email: *timothy.p.dowling@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2022–22–10, Amendment 39–22225 (87 FR 72374, November 25, 2022) (AD 2022–22–10), for certain Airbus SAS Model A318, A319, A320, and A321 series airplanes. AD 2022–22–10 was prompted by an MCAI originated by EASA, which is the Technical Agent for the Member States of the European Union. EASA issued AD 2022–0082, dated May 10, 2022 (EASA AD 2022–0082) (which corresponds to FAA AD 2022–22–10), to correct an unsafe condition.

AD 2022–22–10 requires revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations. The FAA issued AD 2022–22–10 to address failure of certain life-limited parts, which could result in reduced structural integrity of the airplane.

Actions Since AD 2022–22–10 Was Issued

Since the FAA issued AD 2022–22–10, EASA superseded AD 2022–0082 and issued EASA AD 2024–0066, dated March 8, 2024 (EASA AD 2024–0066) (referred to after this as the MCAI), for all Airbus SAS Model A318, A319, and A321 series airplanes; and Model A320–211, –212, –214, –215, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes. Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability. The MCAI states that new or more restrictive airworthiness limitations have been developed.

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after November 6, 2023, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

The FAA is proposing this AD to address failure of certain life-limited parts, which could result in reduced structural integrity of the airplane. You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2024–2323.

Material Incorporated by Reference Under 1 CFR Part 51

EASA AD 2024–0066 specifies new or more restrictive airworthiness tasks and limitations for airplane structures and safe life limits.

This proposed AD would also require EASA AD 2022–0082, which the Director of the Federal Register approved for incorporation by reference as of December 30, 2022 (87 FR 72374, November 25, 2022).

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 MCAIs 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 retain certain requirements of AD 2022–22–10. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, which are specified in EASA AD 2024–0066 already described, as proposed for incorporation by reference. Any differences with EASA AD 2024–0066 are identified as exceptions in the regulatory text of this proposed AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (m)(1) 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 retain the IBR of EASA AD 2022–0082 and incorporate EASA AD 2024–0066 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0082 and EASA AD 2024–0066 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 2022–0082 or EASA AD 2024–0066 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 2022–0082 or EASA AD 2024–0066. Material required by EASA AD 2022–0082 and EASA AD 2024–0066 for compliance will be available at *regulations.gov* by searching for and locating Docket No. FAA–2024–2323 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary

source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional AD Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 1,857 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2022–22–10 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours 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 proposed 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

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:

■ a. Removing Airworthiness Directive (AD) 2022–22–10, Amendment 39–22225 (87 FR 72374, November 25, 2022); and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2024–2323; Project Identifier MCAI–2024–00171–T.

(a) Comments Due Date

The FAA must receive comments on this AD by November 15, 2024.

(b) Affected ADs

This AD replaces AD 2022–22–10, Amendment 39–22225 (87 FR 72374, November 25, 2022) (AD 2022–22–10).

(c) Applicability

This AD applies to Airbus SAS Model airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 6, 2023.

(1) A318–111, –112, –121, and –122 airplanes.

(2) A319–111, –112, –113, –114, –115, –131, –132, –133, –151N, –153N, and –171N airplanes.

(3) A320–211, –212, –214, –216, –231, –232, –233, –251N, –252N, –253N, –271N, –272N, and –273N airplanes.

(4) A321–111, –112, –131, –211, –212, –213, –231, –232, –251N, –252N, –253N, –271N, –272N, –251NX, –252NX, –253NX, –271NX, and –272NX airplanes.

(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 life-limited parts. The unsafe condition, if not addressed, could result in reduced structural integrity 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 a New Terminating Action

This paragraph restates the requirements of paragraph (j) of AD 2022–22–10, with a new terminating action. For airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before February 2, 2022, except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0082, dated May 10, 2022 (EASA AD 2022–0082). Accomplishing the revision of the existing maintenance or inspection program required by paragraph (j) of this AD terminates the requirements of this paragraph.

(h) Retained Exceptions to EASA AD 2022–0082, With No Changes

This paragraph restates the exceptions specified in paragraph (k) of AD 2022–22–10, with no changes.

(1) Where EASA AD 2022–0082 refers to its effective date, this AD requires using December 30, 2022 (the effective date of AD 2022–22–10).

(2) The requirements specified in paragraph (1) of EASA AD 2022–0082 do not apply to this AD.

(3) Paragraph (2) of EASA AD 2022–0082 specifies revising ''the approved AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after December 30, 2022 (the effective date of AD 2022–22–10).

(4) The initial compliance time for doing the tasks specified in paragraph (2) of EASA AD 2022–0082 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (2) of EASA AD 2022–0082, or within 90 days after December 30, 2022 (the effective date of AD 2022–22–10), whichever occurs later.

(5) The provisions specified in paragraphs (3) and (4) of EASA AD 2022–0082 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2022–0082 does not apply to this AD.

(i) Retained Restrictions on Alternative Actions and Intervals, With a New Exception

This paragraph restates the requirements of paragraph (l) of AD 2022–22–10, with a new exception. Except as required by paragraph (j) 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) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2022–0082.

(j) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (k) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2024–0066, dated March 8, 2024 (EASA AD 2024–0066). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(k) Exceptions to EASA AD 2024–0066

(1) This AD does not adopt the requirements specified in paragraph (1) of EASA AD 2024–0066.

(2) Paragraph (2) of EASA AD 2024–0066 specifies revising ''the approved AMP,'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(3) The initial compliance time for doing the tasks specified in paragraph (2) of EASA AD 2024–0066 is at the applicable ''limitations'' as incorporated by the requirements of paragraph (2) of EASA AD 2024–0066, or within 90 days after the effective date of this AD, whichever occurs later.

(4) This AD does not adopt the provisions specified in paragraphs (3) and (4) of EASA AD 2024–0066.

(5) This AD does not adopt the ''Remarks'' section of EASA AD 2024–0066.

(l) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2024–0066.

(m) 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, send it to the attention of the person identified in paragraph (n) of this AD and email to: *AMOC@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) AMOCs approved previously for AD 2022–22–10 are approved as AMOCs for the corresponding provisions of EASA AD 2024–0066 that are required by paragraph (g) of this AD.

(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.

(n) Additional Information

For more information about this AD, contact Timothy Dowling, Aviation Safety Engineer, FAA, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; phone: 206–231–3367; email: *timothy.p.dowling@faa.gov.*

(o) 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) European Union Aviation Safety Agency (EASA) AD 2024–0066, dated March 8, 2024.

(ii) [Reserved]

(4) The following material was approved for IBR on December 30, 2022 (87 FR 72374, November 25, 2022).

(i) EASA AD 2022–0082, dated May 10, 2022.

(ii) [Reserved]

(5) 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.*

(6) 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.

(7) 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 25, 2024.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2024–22444 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2024–2274 Airspace Docket No. 22–AAL–80]

RIN 2120–AA66

Amendment of Alaskan Very High Frequency Omnidirectional Range Federal Airway V–510 in Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Alaskan Very High Frequency Omnidirectional Range (VOR) Federal Airway V–510 in Alaska. This proposed action is due to the decommissioning of the Anvik Nondirectional Radio Beacon (NDB) in Alaska.

DATES: Comments must be received on or before November 15, 2024.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2024–2274 and Airspace Docket No. 22–AAL–80 using any of the following methods:

* *Federal eRulemaking Portal:* Go to *www.regulations.gov* and follow the online instructions for sending your comments electronically.

* *Mail:* Send comments to Docket Operations, M–30; U.S. Department of

Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

* *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

* *Fax:* Fax comments to Docket Operations at (202) 493–2251.

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

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, Office of Policy, Federal Aviation Administration, 600 Independence Avenue SW, Washington DC 20597; telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: Steven Roff, Rules and Regulations Group, Office of Policy, 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 would modify the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should submit only one time if comments are filed electronically, or commenters should send only one copy of written comments if comments are filed in writing.

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

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

Availability of Rulemaking Documents

An electronic copy of this document may be downloaded through the internet at *www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Operations office (see **ADDRESSES** section for address, phone number, and hours of operations). An informal docket may also be examined during normal business hours at the office of the Western Service Center, Federal Aviation Administration, 2200 South 216th St., Des Moines, WA 98198.

Incorporation by Reference

Alaskan VOR Federal Airways are published in paragraph 6010(b) of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document proposes to amend the current version of that order, FAA Order JO 7400.11J, dated July 31, 2024, and effective September 15, 2024. These updates would be published in the next update to FAA Order JO 7400.11. That order is publicly available as listed in the **ADDRESSES** section of this document.

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

Background

In 2003, Congress enacted the Vision 100-Century of Aviation Reauthorization Act (Pub L., 108–176), which established a joint planning and development office in the FAA to manage the work related to the Next Generation Air Transportation System (NextGen). Today, NextGen is an ongoing FAA-led modernization of the nation's air transportation system to make flying safer, more efficient, and more predictable.

In support of NextGen, this proposal is part of an ongoing, large, and comprehensive airway modernization project in the state of Alaska. Part of this project is to transition the Alaskan en route navigation structure away from dependency on NDB and move to develop and improve the area navigation (RNAV) route structure. The FAA is planning to decommission the Anvik NDB in the state of Alaska. As a result, a portion of Alaskan Federal Airway V–510 will become unusable.

The FAA proposes to amend Alaskan Federal Airway V–510 by revoking the portion of V–510 that extends between the Emmonak, AK, VOR/Distance Measuring Equipment (VOR/DME) and the McGrath Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC). The loss of this segment of V–510 is mitigated by two existing United States RNAV routes. RNAV route T–308 directly overlies V–510 between the Emmonak VOR/DME and the Anvik NDB. RNAV route T–382 is near V–510 between the Anvik NDB and the McGrath VORTAC, and T–382 provides a lower minimum en route altitude.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to by amending Alaskan VOR Federal Airway V–510 in Alaska. This proposed action is due to the decommissioning of the Anvik NDB in Alaska

V–510: V–510 currently extends between the Emmonak, AK, VOR/DME and the Big Lake, AK, VORTAC. The FAA proposes to revoke the portion of V–510 that extends between the

Emmonak VOR/DME and the McGrath VORTAC. As amended, V–510 would extend between the McGrath VORTAC and the Big Lake VORTAC.

Regulatory Notices and Analyses

The FAA has determined that this proposed 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 will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11J, Airspace Designations and Reporting Points, dated July 31, 2024, and effective September 15, 2024, is amended as follows:

Paragraph 6010(b) Alaskan VOR Federal Airways.

* * * * *

V–510 [Amended]

From McGrath, AK, INT McGrath 121° and Big Lake, AK 294° radials; Big Lake, AK.

* * * * *

Issued in Washington, DC, on September 24, 2024.

Frank Lias,

Manager, Rules and Regulations Group.

[FR Doc. 2024–22282 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM24–4–000]

Supply Chain Risk Management Reliability Standards

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to direct the North American Electric Reliability Corporation, the Commission-certified Electric Reliability Organization, to develop and submit for Commission approval new or modified Reliability Standards that address the: sufficiency of responsible entities' supply chain risk management plans related to the identification of, assessment of, and response to supply chain risks, and applicability of Reliability Standards' supply chain protections to protected cyber assets.

DATES: Comments are due December 2, 2024.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways. Electronic filing through *https://www.ferc.gov,* is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) delivery*: Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

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Alexandra Holmes (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6229, *alexandra.holmes@ferc.gov*

SUPPLEMENTARY INFORMATION:

Notice of Proposed Rulemaking

(Issued September 19, 2024)

1. Pursuant to section 215(d)(5) of the Federal Power Act (FPA),[1] the Commission proposes to direct the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), to submit new or modified Reliability Standards within 12 months of the effective date of a final rule that address ongoing risks to the reliability and security of the Bulk-Power System posed by gaps in the Critical Infrastructure Protection (CIP) Reliability Standards related to supply chain risk management (SCRM) (collectively, the SCRM Reliability Standards).[2] Specifically, we propose to direct NERC to develop new or modified Reliability Standards to address the: (A) sufficiency of responsible entities' SCRM plans related to their (1) identification of, (2) assessment of, and (3) response to supply chain risks, and (B) applicability of SCRM Reliability Standards to protected cyber assets (PCA).[3] Our proposed directives in this NOPR are forward-looking and objective-driven.[4]

2. Although the currently effective SCRM Reliability Standards provide a baseline of protection against supply chain threats, there are increasing

[1] 16 U.S.C 824o(d)(5); *see also* 18 CFR 39.5(f).

[2] In this notice of proposed rulemaking, the term SCRM Reliability Standards includes Reliability Standards CIP–005–7 (Electronic Security Perimeter(s)), CIP–010–4 (Configuration Change Management and Vulnerability Assessments), and CIP–013–2 (Supply Chain Risk Management).

[3] The Glossary of Terms Used in NERC Reliability Standards (NERC Glossary) defines PCAs as ''[o]ne or more Cyber Assets connected using a routable protocol within or on an Electronic Security Perimeter that is not part of the highest impact BES Cyber System within the same Electronic Security Perimeter. . . .'' The NERC Glossary defines Electronic Security Perimeter as ''[t]he logical border surrounding a network to which BES Cyber Systems are connected using a routable protocol.'' *See* NERC, *Glossary of Terms Used in NERC Reliability Standards* (July 2024), *https://www.nerc.com/pa/Stand/Glossary%20of%20Terms/Glossary_of_Terms.pdf.*

[4] *See Revised Critical Infrastructure Prot. Reliability Standards*, Order No. 829, 81 FR 49878 (July 29, 2016), 156 FERC ¶ 61,050, at P 43 (2016).

opportunities for attacks posed by the global supply chain. As we have observed in prior proceedings, while the global supply chain provides the opportunity for significant customer benefits such as low cost, variety of products, and rapid innovation, it also introduces risk to the security and reliability of the Bulk-Power System by facilitating attacks by adversaries.[5] Using the global supply chain, adversaries have inserted counterfeit and malicious software, tampered with hardware, and enabled remote access.[6] Based on these known risks, over the last decade, the Commission, other Federal agencies, and the energy industry have focused on SCRM and mitigating cybersecurity risks associated with the supply chain for critical infrastructure. In light of the increasing threat environment and the need for improved mitigation strategies, we have identified significant gaps in the provisions of the SCRM Reliability Standards. Specifically, we preliminarily find that gaps remain in the SCRM Reliability Standards related to the: (A) sufficiency of responsible entities' SCRM plans related to the (1) identification of, (2) assessment of, and (3) response to supply chain risks, and (B) applicability of SCRM Reliability Standards to PCAs.

3. We believe that directing NERC to address these gaps in the SCRM Reliability Standards will strengthen the reliability and security of the Bulk-Power System. These reliability gaps present an increasingly urgent threat to the Bulk-Power System that requires timely action. As such, we propose to direct NERC to file new or modified Reliability Standards with the Commission within 12 months of the effective date of a final rule addressing the reliability concerns discussed in this NOPR. We seek comments on all aspects of the proposed directive to NERC, including the appropriate deadline by which NERC would file the new or modified Reliability Standards.

I. Background

A. Legal Authority

4. Section 215 of the FPA provides that the Commission may certify an ERO, the purpose of which is to establish and enforce Reliability Standards, which are subject to Commission review and approval. Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[7] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[8] and subsequently certified NERC as the ERO.[9]

5. The Commission has the authority pursuant to section 215(d)(5) of the FPA and consistent with § 39.5(f) of the Commission's regulations, upon its own motion or upon complaint, to order the ERO to submit to the Commission a proposed Reliability Standard or a modification to a Reliability Standard that addresses a specific matter if the Commission considers such a new or modified Reliability Standard appropriate to carry out section 215 of the FPA.[10] Further, pursuant to § 39.5(g) of the Commission's regulations, when ordering the ERO to submit to the Commission a proposed or modified Reliability Standard that addresses a specific matter, the Commission may order a deadline by which the ERO must submit such Reliability Standard.[11]

B. Supply Chain Risk Management

6. The supply chain refers to the sequence of processes involved in the production and distribution of, *inter alia,* industrial control system hardware, software, and services.[12] Such supply chains are complex, globally distributed, and interconnected systems with geographically diverse routes that consist of multiple tiers of suppliers who collectively build components necessary to deliver final products to customers. Further, the origins of products or components may be intentionally or inadvertently obscured. Certain foreign suppliers may also be subject to policies or laws that compel those suppliers to covertly provide their governments with customer data, trade secrets, and intellectual property obtained by embedding spyware or other compromising software in products, parts, or services.[13] Because the supply chain is so complex, it is extremely challenging to identify, assess, and respond to risk. The various processes, practices, and methodologies used to do so are collectively referred to as ''SCRM.'' SCRM includes implementing processes, tools, or techniques that minimize adverse impacts of adversary attacks.[14]

C. SCRM Reliability Standards

7. The currently effective SCRM Reliability Standards provide a baseline for supply chain risk protection for high and medium impact bulk electric system (BES) Cyber Systems [15] and various associated systems and assets as outlined in each Standard.[16] The SCRM Reliability Standards, except for Reliability Standard CIP–005–7, do not include protections for PCAs.[17]

8. The SCRM Reliability Standards address four security objectives: (1) software integrity and authenticity to mitigate the risk of software made more vulnerable by the insertion of unauthorized malicious code or software patches into the software; (2) vendor remote access to mitigate the risk of malicious exploitation of a software backdoor by addressing responsible entities' logging and controlling all third-party (*i.e.,* vendor) initiated remote access sessions; (3) information system planning and procurement to ensure that responsible entities consider the risks associated with proposed information system planning and system development actions and to provide broad programmatic safeguards to mitigate vulnerabilities inserted into Bulk-Power

[5] *See, e.g., Id.* at PP 11, 25; *see also, e.g., Supply Chain Risk Mgmt. Reliability Standards,* Order No. 850, 83 FR 53992 (Oct. 26, 2018), 165 FERC ¶ 61,020, at P 2 (2018).

[6] *See infra* n.80 (discussing SolarWinds Orion network management software compromise).

[7] 16 U.S.C. 824o(e).

[8] *Rules Concerning Certification of the Elec. Reliability Org. & Procs. for the Establishment, Approval, & Enf't of Elec. Reliability Standards,* Order No. 672, 71 FR 8662 (Feb. 17, 2006), 114 FERC ¶ 61,104, *order on reh'g,* Order No. 672–A, 71 FR 19814 (Apr. 18, 2006), 114 FERC ¶ 61,328 (2006).

[9] *N. Am. Elec. Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[10] 16 U.S.C. 824o(d)(5); 18 CFR 39.5(f).

[11] 18 CFR 39.5(g).

[12] *See, e.g.,* Order No. 829, 156 FERC ¶ 61,050 at P 4 (discussing the reliability concerns posed by the supply chain).

[13] *See* Office of the Dir. of Nat'l Intelligence, *Protecting Critical Supply Chains: Risks from Foreign Adversarial Exposure* (2024), *https://www.dni.gov/files/NCSC/documents/supplychain/Risks_From_Foreign_Adversarial_Exposure.pdf.*

[14] *See* NIST, *Computer Security Resource Center—Definition of Supply Chain Risk Management, https://csrc.nist.gov/glossary/term/supply_chain_risk_management.*

[15] Each BES Cyber System, per Reliability Standard CIP–002–5.1a (BES Cyber System Categorization), is placed into one of three impact categories, high, medium, or low. The purpose of categorizing BES Cyber Systems is to apply cybersecurity requirements consistently, efficiently, and commensurate with the adverse impact that loss, compromise, or misuse of those systems could have on the reliable operation of the Bulk-Power System. At a minimum, all BES Cyber Systems must be categorized as low impact. *See* Reliability Standard CIP–002–5.1a (Cyber Security—BES Cyber System Categorization), Attachment 1: Impact rating Criteria, *https://nerc.com/pa/Stand/Reliability%20Standards/CIP-002-5.1a.pdf.*

[16] Order No. 850, 165 FERC ¶ 61,020; Order No 829, 156 FERC ¶ 61,050 (SCRM Reliability Standards require responsible entities to develop and implement SCRM plans that include supply chain management security controls for industrial control system hardware and software, as well as services associated with Bulk-Power System operations).

[17] *See* Reliability Standard CIP–005–7, Requirements R1 and R2.

System software or hardware throughout their life cycle; and (4) vendor risk management and procurement controls to address the risk that entities could enter into contracts with vendors who pose significant risks to their systems, as well as the risk that products procured by a responsible entity fail to meet minimum security criteria.[18]

1. Reliability Standard CIP–005–7 (Electronic Security Perimeter(s))

9. Reliability Standard CIP–005–7 is applicable to high impact BES Cyber Systems and their associated PCAs and medium impact BES Cyber Systems with external routable connectivity and their associated PCAs. The Standard requires responsible entities to manage electronic access to their BES Cyber Systems and requires each responsible entity to have one or more methods to determine active vendor remote access sessions and one or more methods to disable vendor remote access. Requirements R2 and R3 of Reliability Standard CIP–005–7 work in tandem with Requirement R1.2.6 of Reliability Standard CIP–013–2, described in more detail below, to address vendor remote access controls in the operational phase. Requirements R2 Parts 2.4 and 2.5 of Reliability Standard CIP–005–7 require one or more methods for determining and disabling, respectively, active vendor remote access sessions, including interactive remote access and system-to-system remote access, taking place on a responsible entity's system. Requirement R3 is applicable to the electronic access control or monitoring systems [19] and physical access control systems [20] associated with high impact BES Cyber Systems and medium impact BES Cyber Systems with external routable connectivity. Requirement R3 includes Parts 3.1 and 3.2 and addresses remote access controls for electronic access control or monitoring systems and physical access control systems associated with high impact BES Cyber Systems and medium impact BES Cyber Systems with external routable connectivity.

2. Reliability Standard CIP–010–4 (Configuration Change Management and Vulnerability Assessments)

10. Reliability Standard CIP–010–4 is applicable to high and medium impact BES Cyber Systems and their associated electronic access control or monitoring systems and physical access control systems and requires responsible entities to prevent and detect unauthorized changes to their BES Cyber Systems. This includes requiring that responsible entities verify the identity and integrity of software and its source, when possible, prior to installation. These steps help reduce the likelihood that an attacker could exploit legitimate vendor patch management processes to deliver compromised software updates or patches to a BES Cyber System.

3. Reliability Standard CIP–013–2 (Supply Chain Risk Management)

11. Reliability Standard CIP–013–2 requires each responsible entity to develop a written SCRM plan for its high and medium impact BES Cyber Systems and their associated electronic access control or monitoring systems and physical access control systems. Reliability Standard CIP–013–2 focuses on the steps that responsible entities must take to consider and address cybersecurity risks from vendor products and services during BES Cyber System planning and procurement.[21] The goal of the Standard is to ensure that responsible entities establish organizationally-defined processes that integrate a cybersecurity risk management framework into the system development lifecycle.[22] The SCRM plan must include processes for procuring and installing vendor equipment and software; identifying and assessing cybersecurity risks; notification, coordination, and disclosure of known vendor vulnerabilities; and verification of the integrity and authenticity of software and patches provided by vendors for use in the BES Cyber Systems and their associated electronic access control or monitoring systems and physical access control systems.

D. Ongoing Activities To Mitigate Supply Chain Risks

1. Federal Efforts on SCRM

12. Since approving the SCRM Reliability Standards in 2018, the Commission has continued its focus on identifying additional improvements for addressing the risk posed by the global supply chain. For example, in December of 2022, the Commission convened a joint technical conference with the U.S. Department of Energy to discuss supply chain security challenges, the current SCRM Reliability Standards, and their challenges, gaps, and opportunities for improvement.[23] In December of 2023, Commission staff issued a report that included recommendations for users, owners, and operators of the Bulk-Power System to improve their compliance with CIP Reliability Standards generally, and SCRM specifically.[24] Among other things, the 2023 Lessons Learned Report recommended that entities enhance their SCRM programs to include evaluating the risks of existing vendors and developing a plan to mitigate those risks once identified. And in March 2023, the Commission approved modifications to Reliability Standard CIP–003–9 (Security Management Controls), which added new requirements focused on SCRM for low impact BES Cyber Systems.[25]

13. There has also been recent action in the Federal Government's broader effort to secure U.S. communications networks and prohibit the use of equipment that could give a foreign adversary the ability to exploit those networks. On May 12, 2021, the President issued Executive Order 14028 on improving the nation's cybersecurity that directed multiple government agencies to partner with the private sector to enhance cybersecurity through a variety of initiatives.[26] Executive Order 14028 requires the Secretary of Commerce and the Director of the National Institute of Standards and Technology (NIST) to create and publish supply chain guidelines that include criteria to evaluate software security, criteria to evaluate security practices of

[18] Order No. 829, 156 FERC ¶ 61,050 at P 2.

[19] NERC defines electronic access control or monitoring systems as ''Cyber Assets that perform electronic access control or electronic access monitoring of the Electronic Security Perimeter(s) or BES Cyber Systems. This includes Intermediate Systems.'' *See* NERC Glossary at 12. In Order No. 850, the Commission directed NERC to include electronic access control or monitoring systems within the scope of the SCRM Reliability Standards. Order No. 850, 165 FERC ¶ 61,020 at P 46. The Commission then later approved those modifications. *See N. Am. Elec. Reliability Corp.,* 174 FERC ¶ 61,193, at P 9 (2021).

[20] NERC defines physical access control systems as ''Cyber Assets that control, alert, or log access to the Physical Security Perimeter(s), exclusive of locally mounted hardware or devices at the Physical Security Perimeter such as motion sensors, electronic lock control mechanisms, and badge readers.'' *See* NERC Glossary at 22.

[21] Order No. 850, 165 FERC ¶ 61,020 at P 15.

[22] *Id.*

[23] *Supply Chain Risk Mgmt. Tech. Conference,* Docket No. AD22–12–000 (Dec. 7, 2022), *https://www.ferc.gov/news-events/events/joint-ferc-doe-supply-chain-risk-management-technical-conference-12072022.*

[24] FERC Staff Report, *2023 Lessons Learned from Commission-led CIP Reliability Audits,* at 17–19 (Dec. 12, 2023), *https://www.ferc.gov/sites/default/files/2023-12/23_Lessons%20Learned_1211.pdf* (2023 Lessons Learned Report).

[25] *N. Am. Elec. Reliability Corp.,* 182 FERC ¶ 61,155 (2023).

[26] E.O. 14028, 88 FR 26633, 26637 (May 12, 2021).

software developers and suppliers, and tools or methods to demonstrate conformance with security practices.[27] In response to Executive Order 14028, NIST and the Office of Management and Budget (OMB) issued several guidance and memoranda documents to enhance supply chain protections for Federal entities.[28]

14. Additionally, the Federal Communications Commission (FCC), an independent agency that regulates U.S. interstate and international communications, is also addressing supply chain risks and threats within its jurisdiction. Effective February 6, 2023, the FCC issued a new rule restricting telecommunication and video surveillance equipment produced by entities that pose national security risks from being imported to or sold within the United States.[29] Under the rule, the FCC will not issue authorizations for equipment on the ''Covered List'' that the FCC publishes under the Secure Networks Act.[30] On March 8, 2023, the FCC proposed an additional rulemaking seeking input on whether to extend the prohibition to component parts that pose an unacceptable risk to national security.[31]

[27] *Id. See also* NIST, *Improving the Nation's Cybersecurity: NIST's Responsibilities Under the May 2021 Executive Order, https://www.nist.gov/itl/executive-order-14028-improving-nations-cybersecurity.*

[28] *E.g.,* NIST, *Secure Software Development Framework (SSDF) Version 1.1* (Feb. 2022), *https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-218.pdf;* NIST, *Software Supply Chain Security Guidance Under Executive Order 14028 Section 4e* (Feb. 2022), *https://www.nist.gov/system/files/documents/2022/02/04/software-supply-chain-security-guidance-under-E.O.-14028-section-4e.pdf;* OMB, *Memorandum for the Heads of Executive Departments and Agencies: Protecting Critical Software Through Enhanced Security Measures,* M–21–30, 2–3 (Aug. 10, 2021) (OMB Memorandum of August 2021), *https://whitehouse.gov/wp-content/uploads/2021/08/M-21-30.pdf (*directing Federal agencies to comply with and implement the security measures developed by NIST outlined in the *NIST Security Measures for E.O.-Critical Software Use* and implement those protections in phases).

[29] Under its equipment authorization authority, the FCC requires radio-frequency devices to be authorized by the FCC before being imported or marketed into the United States.

[30] FCC, *Protecting Against Nat'l Sec. Threats to the Commc'ns Supply Chain Through the Equip. Authorization Program,* 88 FR 7592, 7593 (Feb. 6, 2023) (citing Secure Equipment Act of 2021, Pub. L. 117–55, 135 Stat. 423, (Nov. 11, 2021) that requires, among other things, that the FCC publish and periodically update a list of covered equipment that have been determined to pose national security risks and equipment or services produced or provided by entities that meet certain capabilities).

[31] FCC, *Protecting Against National Security Threats to the Communications Supply Chain Through the Equipment Authorization Program and the Competitive Bidding Program,* 88 FR 14312 (Mar. 8, 2023).

2. NERC Efforts on SCRM

15. Since the Commission directed and then approved the first set of SCRM Reliability Standards, NERC has independently taken additional actions to improve supply chain controls. For example, in 2019, NERC completed a study of supply chain risks including those associated with low impact assets not currently subject to Reliability Standard CIP–013.[32] Pursuant to this study, NERC modified Reliability Standard CIP–003 to include supply chain controls for vendor remote access, which the Commission approved in March of 2023.[33]

16. Separately, stemming in part from cybersecurity events such as the SolarWinds Orion compromise, the NERC Board of Trustees directed NERC staff to complete a review and analysis of the risk posed by low impact BES Cyber Assets and report on whether to modify criteria for determining whether a BES Cyber System be categorized as low impact.[34] Based on the resulting Low Impact Criteria Review Report,[35] NERC initiated a standards development project to modify Reliability Standard CIP–003. The stated purpose of the project is to further revise CIP–003 to, among other things, improve vendor remote access protections.[36]

17. Yet another effort regarding supply chain security was NERC's development of a draft standards authorization request (SAR) to revise Reliability Standard CIP–013–2. On September 20, 2023, NERC staff submitted a draft SAR to the NERC Standards Committee to revise Reliability Standard CIP–013–2.[37] The purpose of the standard development project was to revise ''CIP–013–2 to have complete and accurate assessments of supply chain security risks that reflect actual threat(s) posed to the entity'' and ''provide triggers on when the supply chain risk assessment(s) must be performed (*i.e.,* planning for procurement, procurement, and installation) and require a response to risks identified.'' [38] Specifically, the draft SAR project scope was to revise Reliability Standard CIP–013–2 to require entities to: (1) create specific triggers to activate the supply chain risk assessment(s); (2) include the performance of supply chain risk assessment(s) during the different phases of planning for procurement, procurement, installation of equipment/software/services, and post procurement assessment; (3) include steps to validate the completeness and accuracy of the data, assess the risks, consider the vendor's mitigation activities, and document and track any residual risks; (4) track and respond to all risks identified; (5) re-assess standing contract risks on a set timeframe; and (6) re-assess time delay installation beyond a set timeframe. The NERC Standards Committee declined to move forward with this SAR and there has been no further activity on this proposed project.

18. In addition to standards development projects, studies, and surveys, and pursuant to a resolution from the NERC Board of Trustees, NERC also initiated a collaborative SCRM program with industry, trade organizations, and key stakeholders to manage the effective mitigation of supply chain risks.[39] This program included a study of supply chain risks, communication of those risks to the electric industry, and the development of white papers on topics such as the effectiveness of the SCRM Reliability Standards and SCRM best practices.[40] Finally, NERC has also published voluntary security guidelines and whitepapers on topics relevant to supply chain risk management such as

[32] NERC, *Supply Chain Risk Assessment: Analysis of Data Collected under the NERC Rules of Procedure Section 1600 Data Request* (Dec. 9, 2019), *https://www.nerc.com/pa/comp/SupplyChainRiskMitigationProgramDL/Supply%20Chain%20Risk%20Assesment%20Report.pdf.*

[33] *N. Am. Elec. Reliability Corp.,* 182 FERC ¶ 61,155 (2023).

[34] *See* NERC, *Minutes: Board of Trustees,* 7 (Feb. 4, 2021), *https://www.nerc.com/gov/bot/Agenda%20highlights%20and%20Mintues%202013/Minutes%20-%20BOT%20Open%20-%20Feb%204%202021.pdf.*

[35] NERC, *Low Impact Criteria Review Report: NERC Low Impact Criteria Review Team White Paper* (Oct. 2022), *https://www.nerc.com/pa/Stand/Project%202023%2004%20Modifications%20to%20CIP%20003%20DL/NERC_LICRT_White_Paper_clean.pdf.*

[36] NERC, *Project 2023–04 Modifications to CIP–003, https://www.nerc.com/pa/Stand/Pages/Project-2023-04-Modifications-to-CIP-003.aspx* (stating the purpose and industry need for the modifications to Reliability Standard CIP–003).

[37] *See* NERC, *Agenda: Standards Committee Meeting,* Agenda Item 6a, 2 (Sept. 20, 2023), *https://www.nerc.com/comm/SC/Agenda%20Highlights%20and%20Minutes/SC_Agenda_Package_September_20_2023.pdf* (NERC Draft SAR).

[38] *Id.*

[39] *See* NERC, *Proposed Additional Resolutions for Agenda Item 9.a: Cyber Security—Supply Chain Risk Management—CIP–005–6, CIP–010–3, and CIP–013–1: Board of Trustees Meeting* (Aug. 10, 2017), *https://www.nerc.com/gov/bot/Agenda%20highlights%20and%20Mintues%202013/Proposed%20Resolutions%20re%20Supply%20Chain%20Follow-up%20v2.pdf* (NERC SCRM Board Resolution).

[40] *See* NERC, *Supply Chain Risk Mitigation Program, https://www.nerc.com/pa/comp/Pages/Supply-Chain-Risk-Mitigation-Program.aspx.*

key practices and guidance for responsible entities.[41]

3. Industry Efforts on SCRM

19. Industry stakeholders have also taken the initiative to develop various guidelines and best practice documents to improve SCRM. For example, the Electric Power Research Institute issued a 2018 report recommending that responsible entities develop and implement supply chain traceability of their systems and components and to consider cloud services as a part of an entity's supply chain.[42] Similarly, Edison Electric Institute released voluntary guidance with model procurement contract language to help responsible entities address cybersecurity supply chain risk with their vendors.[43] And the North American Transmission Forum (NATF) developed an ERO-endorsed CIP–013 Implementation Guide,[44] as well as several documents pertaining to supply chain risk management that represent approaches that responsible entities may take to comply with Reliability Standard CIP–013 in a systematic and comprehensive manner.[45]

II. Discussion

20. While the SCRM Reliability Standards provide a strong foundation of protection against supply chain threats, we are concerned that there are gaps in the requirements of those Reliability Standards that may lead to a responsible entity's SCRM plan being insufficient to identify, assess, and respond to SCRM risks. As discussed below, we believe that the SCRM plans required by the currently effective SCRM Reliability Standards are insufficient to protect against the myriad of supply chain threats. Further, our concern with the exclusion of PCAs from the SCRM Reliability Standards has grown since initially discussed in Order No. 850. As such, pursuant to section 215(d)(5) of the FPA, we propose to direct NERC to develop new or modified Reliability Standards to address the: (A) sufficiency of responsible entities' SCRM plans related to the (1) identification of, (2) assessment of, and (3) response to supply chain risks; and (B) applicability of SCRM Reliability Standards to PCAs.

21. We are aware of and appreciate the continuing efforts of NERC, industry, and other Federal agencies to address supply chain risks. In particular, we note that NERC has identified areas for improvement of the SCRM Reliability Standards,[46] and NERC and industry continue to develop voluntary guidance or best practices to address supply chain risks. Nonetheless, we do not believe existing efforts sufficiently address known gaps in the SCRM Reliability Standards, and we believe further Commission action is warranted to address them.

22. Similarly, while we view the FCC's recent actions as beneficial for Bulk-Power System reliability, these actions address only certain aspects of identified supply chain risks. For example, the new FCC rules prohibit import and installation of telecommunications and video surveillance equipment and software produced by a relatively small number of entities. By contrast, the purpose of the SCRM Reliability Standards is to provide risk mitigation against a broader set of potential threats, including risks associated with entities that are not currently banned under the FCC's authority.[47] We therefore believe that it is appropriate to address SCRM gaps that are within our jurisdiction to better protect the security and reliability of the Bulk-Power System.

A. Sufficiency of SCRM Plans Related to the Identification of, Assessment of, and Response to Supply Chain Risks

23. As discussed further below, we believe that the lack of clear requirements and criteria in the SCRM Reliability Standards as to how responsible entities should identify, assess, and respond to supply chain risks has left the Bulk-Power System vulnerable to attack. We believe that the proposed directives discussed in this NOPR will address these reliability gaps by providing responsible entities with clear and detailed requirements for what their SCRM plans should include and what their responsibilities are in carrying out those plans.

1. Commission Concerns Regarding Reliability Gaps Within the SCRM Reliability Standards

24. The SCRM Reliability Standards require each responsible entity to develop a SCRM plan to identify and assess supply chain and cybersecurity risks based on certain information collected from its vendors. While providing a baseline of protection, the Reliability Standards do not provide specific requirements as to when and how an entity should identify and assess supply chain risks, nor do the Standards require entities to respond to those risks identified through their SCRM plans.

25. The lack of specific requirements related to the (1) identification of, (2) assessment of, and (3) response to risk is also inconsistent with generally established risk management frameworks. Risk management frameworks generally follow three tenets: identify, assess, and respond.[48] A responsible entity's failure to properly identify and assess supply chain risks could lead to an entity installing vulnerable products and allowing compromise of its systems, ''effectively bypassing security controls established by CIP Reliability Standards.'' [49] Further, incomplete or inaccurate risk identification may result in entity assessments of the likelihood and potential impact of supply chain risks that do not reflect the actual threat and risk posed to the responsible entity. In the absence of clear criteria, procedures of entities with ad hoc approaches do not include steps to validate the completeness and accuracy of the vendor responses, assess the risks, consider the vendors' mitigation activities, or respond to any residual risks.[50]

26. As described in the 2023 Lessons Learned Report, Commission audit staff observed multiple gaps in SCRM. In Fiscal Year 2023, Commission staff

[41] The eight NERC-approved security guidelines include: (1) Cyber Security Risk Management Lifecycle; (2) Open Source Software; (3) Secure Equipment Delivery; (4) Supply Chain Procurement Language; (5) Vendor Incident Response; (6) Vendor Risk Management Lifecycle; (7) Supply Chain Provenance; and (8) Cloud Computing. NERC, *Reliability Guidelines, Security Guidelines, Technical Reference Documents, and White Papers, https://www.nerc.com/comm/Pages/Reliability-and-Security-Guidelines.aspx.*

[42] Elec. Power Research Inst., *Supply Chain Risk Assessment: Final Report* (July 2018), *https://www.nerc.com/pa/comp/SupplyChainRiskMitigationProgramDL/EPRI_Supply_Chain_Risk_Assessment_Final_Report_public.pdf.*

[43] Edison Elec. Inst., *Model Procurement Contract Language Addressing Cybersecurity Supply Chain Risk* (Oct. 2022), *https://www.eei.org/-/media/Project/EEI/Documents/Issues-and-Policy/Model--Procurement-Contract.pdf.*

[44] *See* NATF, *NATF CIP–013 Implementation Guidance: Supply Chain Risk Management Plans* (Oct. 2023), *https://www.natf.net/industry-initiatives/supply-chain-industry-coordination.*

[45] Additional NATF documents related to supply chain collaboration are available at *https://www.natf.net/industry-initiatives/supply-chain-industry-coordination.*

[46] *See, e.g., infra* n.80 (discussing the Orion software attack); *infra* n.82 (discussing XZ Utils supply chain attack).

[47] *See supra* n.29.

[48] For example, the NIST Risk Management Framework includes these three tenants of risk and further breaks them down into a seven-step process that entities can use to manage information security and privacy risk for organizations and systems. NIST, *Special Publication 800–37, Revision 2: Risk Management Framework for Information Systems and Organizations,* Task R–3, Risk Response at 72 (Dec. 2018), *https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-37r2.pdf.* (NIST Risk Management Framework).

[49] 2023 Lessons Learned Report at 17–18.

[50] *Id.*

completed non-public audits of several responsible entities to evaluate their compliance with the CIP Reliability Standards. While these audits found that most of the responsible entities were compliant with the SCRM Reliability Standards, there were nevertheless a number of security risks that remained due to the entities' SCRM processes and procedures.[51]

27. In particular, staff found a lack of consistency and effectiveness in SCRM plans for evaluating vendors and their supplied equipment and software. While a minority of audited entities had comprehensive vendor risk evaluation processes in place and displayed a consistent application of the risk identification process to each of their vendors, other entities displayed inconsistent and ad hoc vendor risk identification processes. These risk identification processes were typically completed by only using vendor questionnaires.[52] Further, using only vendor questionnaires resulted in inconsistency of the information collected and was limited to only ''yes/no'' responses regarding the vendors' security posture. Unlike the approach of relying on a vendor questionnaire, a comprehensive approach may validate the data provided by vendors and consider additional factors (*e.g.,* independent third-party evaluation of products and services) that inform how risks of individual assets impact other assets and systems of assets that reside in the same electronic security perimeter.

28. Commission staff also observed that many SCRM plans did not establish procedures to respond to risks once identified.[53] The 2023 Lessons Learned Report documented that audited entities' SCRM plans did not include processes or procedures to respond to risks identified pursuant to Reliability Standard CIP–013–2, Requirement R1.1.[54] A responsible entity has many options as to how it may respond to risks, including mitigation, acceptance, transfer, or avoidance. Regardless of the chosen option, however, a response typically includes documenting and tracking the risk.[55] In instances where a responsible entity has decided that the risk is sufficiently low that no mitigation is required, the entity should document and track its conclusions, such as in a risk register where identified and assessed risks are stored and monitored. As noted in the report, since the SCRM Reliability Standards do not require any action beyond the identification and assessment of risk, responsible entities are not required to take action to respond to or otherwise mitigate identified risks, regardless of severity. Further, staff also found that there were disparities in entity understanding and characterization of risk exposure from existing contracts and vendor relationships that were not fully considered by their supply chain risk management plans, versus those that had complete risk assessments under the parameters required by the criteria in CIP–013. This disparity resulted in entities not having a definitive strategy regarding how they would respond to various risk events posed by potential issues that may arise from existing contracts.[56]

29. Staff's observations in the 2023 Lessons Learned report are consistent with gaps identified by NERC staff in its draft SAR proposing to revise Reliability Standard CIP–013–2. Specifically, the draft SAR explained that ''the language in CIP–013–2 Requirement R1 lacks specificity to properly identify, assess, and respond to supply chain security risks.'' [57] The NERC draft SAR further identified that ''Requirement R1.1 does not indicate how to perform risk identification and assess vendor risks effectively,'' nor does CIP–013–2 ''contain sufficient triggers requiring [the activation of] an entity's [SCRM] plan.'' [58] The draft SAR goes on to explain that implementation of SCRM plans is ''wide ranging and variable'' and that ''the implemented [i]ndustry supply chain risk processes are ambiguous and generally lack rigor for validating the completeness and accuracy of the data, assessing the risks, considering the vendor's mitigation activities, and documenting and tracking residual risks.'' [59] Finally, the draft SAR proposed to initiate a standard development project to revise Reliability Standard ''CIP–013–2 to have complete and accurate assessments of supply chain security risks that reflect actual threat(s) posed to the entity'' and ''provide triggers on when the supply chain risk assessment(s) must be performed (*i.e.,* planning for procurement, procurement, and installation) and require a response to risks identified.'' [60]

30. In light of these identified gaps, we are concerned that the existing SCRM Reliability Standards lack a detailed and consistent approach for entities to develop adequate SCRM plans related to the (1) identification of, (2) assessment of, and (3) response to supply chain risk. Specifically, we are concerned that the SCRM Reliability Standards lack clear requirements for when responsible entities should perform risk assessments to identify risks and how those risk assessments should be conducted to properly assess risk. Further, we are concerned that the Reliability Standards lack any requirement for an entity to respond to supply chain risks once identified and assessed, regardless of severity.

2. Proposed Directives

31. To address the reliability and security gaps discussed above, we propose to direct NERC pursuant to section 215(d)(5) of the FPA, to develop new or modified Reliability Standards to address the sufficiency of SCRM plans related to the: (1) identification of, (2) assessment of, and (3) response to supply chain risks.

a. Identification

32. We propose to direct NERC to submit to the Commission for approval new or modified Reliability Standards that would establish specific timing requirements for a responsible entity to evaluate its equipment and vendors to better identify supply chain risks. Specifically, we propose to direct NERC to establish a maximum time frame between when an entity performs its initial risk assessment during the procurement process and when it installs the equipment. If an entity does not install the equipment or software within the specified time limit, the entity should be required to perform an updated risk assessment prior to installation. As discussed above, we are concerned that the lack of specific requirements in the SCRM Reliability Standards as to when in the procurement and deployment process an entity must apply its SCRM plan to identify supply chain risks can lead to

[51] *Id.* at 1.

[52] *Id.* at 17–18.

[53] *Id.* Further, many entities did not include processes in their SCRM plans to identify, assess, or respond to risks associated with existing contracts prior to the effective date of the SCRM Reliability Standards, though the Standards neither require entities to respond to risk nor reassess existing contracts. *Id.*

[54] *Id.* Reliability Standard CIP–013–2, Requirement R1.1, requires entities to develop supply chain cyber security risk management plans that include:

[o]ne or more process(es) used in planning for the procurement of BES Cyber Systems and their associated [electronic access control or monitoring systems and physical access control systems] to identify and assess cyber security risk(s) to the Bulk Electric System from vendor products or services resulting from: (i) procuring and installing vendor equipment and software; and (ii) transitions from one vendor(s) to another vendor(s).

[55] *See, e.g.,* NIST Risk Management Framework, Task R–3, Risk Response at 72.

[56] 2023 Lessons Learned Report at 17.

[57] *See* NERC Draft SAR, Agenda Item 6a, 2.

[58] *Id.*

[59] *Id.*

[60] *Id.* at 26.

incomplete or inaccurate risk identification that may result in assessments of supply chain risks that do not reflect the actual threat and risk posed to the responsible entity. We seek comment on what factors should be considered in developing a maximum time frame between the initial risk assessment and installation before entities would be required to perform a subsequent risk assessment. We also seek comment on whether this time frame should vary based on certain factors (*e.g.,* equipment type) and the reasons for any proposed time frame variation.

33. Further, to satisfy the Commission directive, the new or modified Reliability Standards must establish periodic requirements for an entity to reassess the risk associated with vendors, products, and services procured under any contracts for supply chain risks that may have developed since the contract commenced. For example, an entity that has a long-term contract with a vendor would be required to conduct a periodic risk assessment of that contract to identify any new or developed supply chain risks since the initial risk assessment. While this requirement would apply to all vendor, product, and service contracts, including existing contracts, we are not proposing to direct NERC to require entities to abrogate or renegotiate contracts with vendors, suppliers, or other entities.

34. We believe this proposed directive is consistent with Order Nos. 829 and 850 and would strengthen SCRM plans identification, assessment, and response to, evolving supply chain risks associated with long-term standing contracts that may not have been contemplated or in existence at the time the contract commenced. We seek comment on factors to be considered in developing a proposed requirement for entities to reassess their supply chain risks of existing contracts with vendors, including the frequency of those assessments and any specific changed circumstances that should trigger the need for a reassessment (*e.g.,* acquisition or merger of an existing supplier).

b. Assessment

35. Next, to satisfy the Commission directive, NERC must submit to the Commission for approval new or modified Reliability Standards that require a responsible entity to establish steps in its SCRM plan to validate the completeness and accuracy of information received from vendors during the procurement process to better inform the identification and assessment of supply chain risks associated with vendors' software, hardware, or services. While we are not proposing to require that entities guarantee the accuracy of information provided by their vendors, we do believe that entities should be required to take certain steps to validate such information.

36. For example, the SCRM plan could require an entity to secure from its vendors: (1) a self-attestation addressing all of the risk questions posed by the responsible entity accompanied by any relevant documentation to support the vendors' claims; or (2) a certification of an assessment from a qualified auditor, assessor, or other reputable third party addressing all risk questions posed by the responsible entity. Upon receipt of a self-attestation, the responsible entity would review and validate vendors' responses to ensure that it has complete information to ensure a rigorous risk assessment. This could represent a proactive effort to validate the information being provided by a vendor to ensure that the information the entity is using to identify and assess risks is accurate. In the absence of a self-attestation and supporting documentation provided by a vendor to the responsible entity, the responsible entity could instead accept an independent third-party certification that an assessment was conducted by a qualified auditor, assessor, or other reputable third-party addressing all risk questions posed by the responsible entity.

37. We are concerned that a responsible entity's failure to take any steps to validate a vendor's information could lead to an entity failing to properly identify or assess risk posed by that vendor and installing vulnerable products that allow compromise of its systems. Further, the lack of validation could result in entities performing risk assessments based on inaccurate or incomplete information which would not reflect the actual threat and risk posed to the responsible entity. We seek comment on what other types of steps an entity could take to validate the data provided by vendors and how burdensome those steps might be.

c. Response

38. Finally, we propose to direct NERC to ensure that the new or modified Reliability Standards require that entities establish a process to document, track, and respond to all identified supply chain risks. We are concerned that the existing SCRM Reliability Standards are inadequate to ensure consistent, timely, and appropriate documented responses to identified vendor risks. We believe that the proposed directive would better align with widely accepted risk management frameworks and address the lack of requirements in the SCRM Reliability Standards for entities to respond to risks once they are identified.

39. A responsible entity can respond to risk in a variety of ways, including by taking specific steps to mitigate the identified security risk (*e.g.,* implementing additional security monitoring of the associated asset or software), transferring the identified security risk (*e.g.,* to a security-as-a-service vendor or through cybersecurity insurance), avoiding the security risk (*e.g.,* by not deploying hardware or software associated with an identified risk), or accepting the security risk, in instances where none of the other responses are possible. Regardless of the approach taken, a responsible entity should document and track its actions.[61] Documentation should include what cybersecurity controls are in place or will be put in place to manage the risk while maintaining the overall reliability of the responsible entity's BES Cyber Systems and associated Cyber Assets. For example, a SCRM plan could include defined processes and tasks to respond to the identified and assessed risk, including maintaining documentation, such as those discussed in table E–6 of the NIST Risk Management Framework.[62] Specific mitigation steps could be similar to the mitigation requirements described in Reliability Standard CIP–007–6, Requirement R2.[63] We seek comment on

[61] *Mandatory Reliability Standards for Critical Infrastructure Protection,* Order No. 706, 73 FR 7368 (Feb. 7, 2008), 122 FERC ¶ 61,040, at P 377 (2008) (discussing Reliability Standard CIP–003–1 requirement for the development and implementation of a security policy, the Commission states that the goal of documentation and justification for an exception to the policy be that there is ''reasoned decision-making, consistency, and subsequent effectiveness in implementing the policy'' and that the Commission require[s] that the reasoning be documented to ensure that the responsible entity is indeed implementing the security policy as required by Requirement R1 of CIP–003–1.'').

[62] *See* NIST Risk Management Framework at 136.

[63] Reliability Standard CIP–007–6 (Security Configuration Management), Requirement R2 (Security Patch Management). Requirement R2 Part 2.1 requires a patch management process for tracking, evaluation, and installing cyber security patches for applicable Cyber Assets. Requirement R2 Part 2.2 establishes a maximum window of 35 calendar days to evaluate the security patches that have been released for applicability. Building on Parts 2.1 and 2.2, Requirement R2 Part 2.3 requires one of the following actions: (1) apply the applicable patches; (2) create a dated mitigation plan; or (3) revise an existing mitigation plan. Building on Part 2.3, Requirement R2 Part 2.4 requires for each mitigation plan, to implement the plan within a specified timeframe.

whether and how a standard documentation process could be developed to ensure entities can properly track identified risks and mitigate those risks according to the entity's specific risk assessment.

40. We further propose to direct NERC to submit responsive new or revised SCRM Reliability Standards within 12 months of the effective date of a final rule in this proceeding, given NERC has already begun the work to address several of the proposed directives in its 2023 draft SAR [64] which it may be able to leverage to timely address the risks identified in this NOPR. However, while we propose a compliance deadline of 12 months, we also seek comment on whether a longer timeline (*e.g.,* 18 months) is necessary, as we recognize that NERC is currently devoting resources to other standards development projects with Commission-imposed timelines.

B. Applicability of SCRM Requirements to PCAs

1. Prior Activity Regarding PCAs

41. PCAs are ancillary equipment that reside behind a responsible entity's electronic access point [65] within the responsible entity's BES Cyber Systems. Electronic access points, often firewalls, are important lines of defense for BES Cyber Systems that reside at an electronic security perimeter. The likelihood of PCAs' compromise through the supply chain has increased in recent years. Because PCAs are located within the electronic security perimeter, the exploitation of PCAs directly puts at risk the interconnected BES Cyber Systems housed in the same electronic security perimeter. A supply chain attack could potentially make use of a compromised PCA to bypass the electronic security perimeter to directly attack medium and high impact BES Cyber Systems within the same electronic security perimeter.

42. The Commission initially considered the applicability of the SCRM Reliability Standards to PCAs in Order No. 850 but did not direct NERC to include them in the scope of the SCRM Reliability Standards. At that time, the Commission believed it was appropriate to await the findings of the study evaluating cybersecurity supply chain risks presented by low impact BES Cyber Systems, physical access control systems, and PCAs. [66] Reasoning that the likelihood of PCAs being compromised was lower than the likelihood that electronic access control or monitoring systems would be compromised, the Commission accepted NERC's commitment, as directed by the NERC Board of Trustees, to study the risk of PCAs in greater depth. The Commission expressed its concern, however, that excluding PCAs may leave a gap in the SCRM Reliability Standards and stated that it would be in a better position to consider whether the inclusion of PCAs would be warranted to protect the reliability of the Bulk-Power System after reviewing NERC's findings.[67]

43. In response to the Commission's directive, NERC submitted its Supply Chain Risk Report in May 2019.[68] The report contained recommendations for actions to address risks associated with certain categories of assets including, among others, PCAs.[69] The report stated that, due to the variety of assets that may be categorized as PCAs, it was not possible to clearly define a general risk posed by their potential supply chain vulnerabilities.[70] As such, NERC staff recommended that, as a best practice, entities should ''evaluate each PCA type on a case-by-case basis to identify any specific risks associated with [SCRM].'' [71] The NERC Supply Chain Risks Report also assessed the risks to PCAs posed by common mode vulnerabilities and found that as PCAs are ''often the same cyber asset type as many common BES Cyber Assets,'' they may act as an attack vector to BES Cyber Systems sharing the same electronic security perimeter.[72]

The report asserts that the SCRM plan required by Reliability Standard CIP–013–1, Requirement R1 could be used effectively to mitigate PCA risks for those PCAs ''obtained under the same [SCRM] procurement plan as BES Cyber Systems associated with high and medium impact BES Cyber Systems.'' [73] With respect to next steps, the report stated that NERC would continue to develop a guideline for entities to use when evaluating their PCAs and when determining what, if any, additional SCRM protections are needed. NERC added that it would also determine whether to collect additional data regarding PCAs.[74] NERC has not yet released any additional guideline documents on PCAs associated with SCRM protections, nor has NERC initiated any additional data collection.

2. Commission Concerns Regarding PCAs

44. Under the existing SCRM Reliability Standards, PCAs receive only limited protections. Specifically, while the SCRM Reliability Standards address four categories of SCRM protections: (1) software integrity and authenticity, (2) vendor remote access protections, (3) information system planning, and (4) vendor risk management and procurement controls—PCAs are only subject to the second category: vendor remote access protections. We believe that the additional protections should apply to PCAs to better mitigate the associated risks and close this known security gap. As such, we preliminarily find that addressing such unprotected PCAs within the SCRM Reliability Standards is necessary to maintain the reliability of the Bulk-Power System in light of evolving threats.

45. As mentioned above, the Commission in Order No. 850 considered but ultimately declined to direct that NERC develop SCRM Reliability Standards that apply to PCAs until the Commission could consider NERC's Board of Trustees-directed study. After reviewing NERC's findings, we preliminarily find that the risks associated with PCAs warrant their inclusion in the SCRM Reliability Standards. As discussed below, recent sophisticated supply chain incidents such as SolarWinds highlight the vulnerabilities and need to protect PCAs from supply chain threats. The NERC Supply Chain Risks Report submitted in response to the Commission's directive in Order No. 850 assessed the risks to PCAs posed by common mode vulnerabilities and found that PCAs share the same risk profile as many BES Cyber Assets that are protected under

[64] *See* NERC Draft SAR, Agenda Item 6a (including in its scope to: (1) create specific triggers to activate the supply chain risk assessment(s); (2) include the performance of supply chain risk assessment(s) during the different phases of planning for procurement, procurement of equipment/software/services, installation, and post procurement assessment; (3) include steps to validate the completeness and accuracy of the data, assess the risks, consider the vendor's mitigation activities, and document and track any residual risks; (4) track and respond to all risks identified; (5) re-assess standing contract risks on a set timeframe; (6) re-assess time delay installation beyond a set timeframe).

[65] NERC defines an electronic access point as a ''Cyber Asset interface on an Electronic Security Perimeter that allows routable communication between Cyber Assets outside an Electronic Security Perimeter and Cyber Assets inside an Electronic Security Perimeter.'' *See* NERC Glossary at 12.

[66] Order No. 850, 165 FERC ¶ 61,020 at PP 66, 67. *See also NERC SCRM Board Resolution.*

[67] Order No. 850, 165 FERC ¶ 61,020 at P 66.

[68] NERC, *Cyber Security Supply Chain Risks: Staff Report and Recommended Actions,* Docket No. RM17–13–000 (May 28, 2019) (NERC Supply Chain Risks Report).

[69] *Id.* at 2.

[70] *Id.* at 21.

[71] *Id.*

[72] *Id.* at 22.

[73] *Id.*

[74] *Id.*

the SCRM Reliability Standards. NERC further found that due to their shared location within an electronic security perimeter, PCAs may be used as an attack vector to BES Cyber Systems.

46. Responsible entities that have robust processes for the identification and assessment of SCRM risks associated with PCAs are better protected against the unintentional procurement and installation of unsecure equipment or software that could serve as a potential attack vector to compromise medium or high impact BES Cyber Systems residing in the same electronic security perimeter. The Commission reasoned in Order No. 829 that without integrity and authenticity controls: (1) attackers could exploit the legitimate vendor patch management process to deliver compromised software updates or patches to applicable systems;[75] and (2) vendor credentials could be stolen and used to access a BES Cyber System without the responsible entities knowledge and traverse over an unmonitored connection into a responsible entity's BES Cyber System.[76] Responsible entities could unintentionally have procured and installed unsecure equipment or software and may fail to meet minimum security criteria.[77]

47. Upon reviewing NERC's report and gaining a better understanding of the risk profile associated with PCAs since Order No. 850, we believe that our reasoning as applied to BES Cyber Systems in Order No. 829 supports the inclusion of PCAs under the protection of the SCRM Reliability Standards because these assets also reside within the same electronic security perimeter as BES Cyber Systems. Accordingly, we believe that all assets within an electronic security perimeter should be assessed for supply chain risk.

48. Moreover, we are not persuaded by the NERC report which demurred from recommending additional SCRM Reliability Standard protections for PCAs. While the NERC report recognized the risks associated with PCAs, it asserted that it is not possible to clearly define a general risk to the Bulk-Power System in the event PCAs are compromised.[78] NERC did not recommend revising the SCRM Reliability Standards to include PCAs and instead recommended that entities evaluate PCAs on a voluntary, case-by-case basis for supply chain risks. While we agree with the NERC report that a wide range of assets fall under the category of PCA, we also believe that such a wide range of assets allows for a wide range of vulnerabilities, therefore proportionately increasing the risk associated with PCAs as an asset class. We further acknowledge that each PCA type may have a different risk profile based on how it interacts with BES Cyber Systems and their impact on the Bulk-Power System that may present unique challenges during risk assessment. However, because PCAs are a clearly defined class of assets, we are not persuaded that the inability to quantify the risk that PCAs present as an asset class renders infeasible the ability to develop a Reliability Standard that addresses the known SCRM risks associated with PCAs.

49. We do, however, agree with NERC's assessment in its report regarding the risk posed by common mode vulnerabilities of unprotected PCAs, *i.e.,* that they are often the same Cyber Asset type as many common BES Cyber Assets and that they may act as an attack vector to BES Cyber Systems sharing the same electronic security perimeter. For example, SolarWinds' Orion software, an enterprise infrastructure monitoring and management platform, was famously compromised by a foreign state actor in 2020. This software would likely be categorized as a PCA if used by a responsible entity and deployed inside an electronic security perimeter.[79] While NERC found that this event did not materially or adversely impact Bulk-Power System operations, a subsequent compromise impacting PCAs could have more severe consequences in the future, including material, adverse impacts on Bulk-Power System operations.[80] Similarly, the XZ Utils supply chain attack demonstrates another close call where PCAs could have been affected if the compromise had not been discovered and detected before further exploitation occurred.[81] Thus, addressing supply chain risk of unprotected PCAs that may perform security-critical functions or pose similar significant potential for harm if compromised is critical to maintaining the security of an electronic security perimeter and would improve an entity's overall security posture.

50. We also agree with NERC's assertion that the supply chain risks associated with PCAs could be mitigated if responsible entities include PCAs in their existing SCRM plans that inform the procurement of medium and high impact BES Cyber Systems.[82] We do not agree, however, that this should be done on a voluntary basis since many PCAs have a similar risk profile to BES Cyber Systems. Finally, we note that applying supply chain protections to PCAs is consistent with risk management practices required for Federal agencies. Specifically, extending supply chain related protections to PCAs aligns with the OMB Memorandum of August 2021 and its phased implementation strategy by ensuring that all software, especially those performing security-critical functions, is fortified against supply chain risks.[83] By proactively evaluating the supply chain risks posed by PCAs, the electric sector can address the risk of supply chain attacks, which have been exemplified by incidents like the SolarWinds breach. The OMB Memorandum of August 2021 provides instructions and creates a phased implementation plan for Federal agencies to adopt the security measures required by Executive Order 14028. Included in the initial phase of implementation are software applications that provide network monitoring and configuration services (*e.g.,* PCAs).[84] This directive, while binding only on Federal agencies, further supports the extension of SCRM protective measures to PCAs. PCAs, if compromised, could serve as conduits for adversaries to infiltrate BES Cyber Systems, potentially leading to breaches originating from within the electronic security perimeters.

3. Proposed Directives

51. For the reasons set forth above, we preliminarily find that the existing SCRM Reliability Standards are

[75] Order No. 829, 156 FERC ¶ 61,050 at P 49.

[76] *Id.* P 52.

[77] *Id.* PP 57, 60.

[78] NERC Supply Chain Risks Report at 21.

[79] FERC Staff and the Electricity Information and Analysis Sharing Center, *SolarWinds and Related Supply Chain Compromise* (July 6, 2021), *https://www.nerc.com/pa/CI/ESISAC/Documents/SolarWinds%20and%20Related%20Supply%20Chain%20Compromise%20White%20Paper.pdf.*

[80] Robert Walton, *NERC finding 25% of utilities exposed to SolarWinds hack indicates growing ICS vulnerabilities, analysts say,* Utility Dive (Apr. 15, 2021), *https://www.utilitydive.com/news/nerc-finding-25-of-utilities-exposed-to-solarwinds-hack-indicates-growing/598449/.*

[81] In this supply chain attack, an unidentified threat actor used social engineering to become an authorized maintainer of XZ Utils, a widely used data compression and decompression library found on many Linux systems. The threat actor then inserted a backdoor into legitimate software updates that would allow them to bypass Secure Shell Protocol authentication and conduct remote code execution on any infected device connected to the internet. *See* Cybersecurity and Infrastructure Security Agency, *Reported Supply Chain Compromise Affecting XZ Utils Data Compression Library, CVE–2024–3094* (Mar. 29, 2024), *https://www.cisa.gov/news-events/alerts/2024/03/29/reported-supply-chain-compromise-affecting-xz-utils-data-compression-library-cve-2024-3094.*

[82] NERC Supply Chain Risks Report at 22.

[83] *See supra* n.28.

[84] *See id.*

inadequate to ensure that PCAs are sufficiently protected from supply chain risk. Because PCAs represent an attack vector to BES Cyber Systems contained within the same electronic security perimeter as the PCAs, the Commission's concern about the threat that these unprotected assets present to the security and reliability of the Bulk-Power System has grown since initially discussed in Order No. 850. As discussed above, these risks are highlighted by recent sophisticated incidents such as the SolarWinds software vulnerability and the XZ Utils supply chain attack. While the current SCRM Reliability Standards require entities to protect PCAs' vendor remote access management, the Reliability Standards should provide a comprehensive protection of PCAs.

52. Accordingly, we propose to direct NERC, pursuant to section 215(d)(5) of the FPA, to modify the SCRM Reliability Standards to include PCAs as applicable assets. Further, we propose to direct NERC to protect PCAs from supply chain risk at the same level as other assets inside an electronic security perimeter (*i.e.,* high and medium impact BES Cyber Systems, electronic access control or monitoring systems, and physical access control systems located inside an electronic security perimeter). Given the broad range of assets that may be categorized as PCAs, we seek comment on potential comprehensive and scalable approaches that could be implemented for identifying and assessing supply chain risks posed by PCAs. Comments on such approaches may inform our directives in a final rule and may also provide valuable input for a possible future NERC standard drafting team tasked with developing directed modifications. Finally, we propose to direct NERC to submit these modifications within 12 months of the effective date of a final rule in this proceeding.

III. Information Collection Statement

53. The information collection requirements contained in this notice of proposed rulemaking are subject to review by the OMB under section 3507(d) of the Paperwork Reduction Act of 1995.[85] OMB's regulations require approval of certain information collection requirements imposed by agency rules.[86] Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements of this proposed rule will not be penalized for failing to respond to this collection of information unless the collection of information displays a valid OMB control number. Comments are solicited on the Commission's need for the information proposed to be reported, whether the information will have practical utility, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

54. The proposal to direct NERC to develop new, or to modify existing, reliability standards (and the corresponding burden) are covered by, and already included in, the existing OMB-approved information collection FERC–725 (Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards; OMB Control No. 1902–0225),[87] under Reliability Standards Development.[88] The reporting requirements in FERC–725 include the ERO's overall responsibility for developing Reliability Standards, such as any Reliability Standards that relate to supply chain risk management.

IV. Environmental Analysis

55. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[89]

56. The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[90] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

57. The Regulatory Flexibility Act of 1980 (RFA)[91] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities.

58. We are proposing only to direct NERC, the Commission-certified ERO, to develop modified Reliability Standards to improve the sufficiency of the SCRM Plans required by CIP–013–2, and to protect PCAs under the SCRM Reliability Standards. These Standards are only applicable to high and medium impact BES Cyber Systems and their associated systems such as electronic access control or monitoring systems and physical access control systems.[92] Therefore, this NOPR will not have a significant or substantial impact on entities other than NERC. Consequently, the Commission certifies that this NOPR will not have a significant economic impact on a substantial number of small entities.

59. Any Reliability Standards proposed by NERC in compliance with this rulemaking will be considered by the Commission in future proceedings. As part of any future proceedings, the Commission will make determinations pertaining to the RFA based on the content of the Reliability Standards proposed by NERC.

VI. Comment Procedures

60. The Commission invites interested persons to submit comments on the matters and issues proposed in this rulemaking to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due December 2, 2024. Comments must refer to Docket No. RM24–4–000, and must include the commenter's name, the organization they represent, if applicable, and their address in their comments. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

61. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *https://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents

[85] 44 U.S.C. 3507(d).

[86] 5 CFR 1320.11.

[87] Another item for FERC–725 is pending review at this time, and only one item per OMB Control No. can be pending OMB review at a time. In order to submit this NOPR timely to OMB, we are using FERC–725(1B) (a temporary, placeholder information collection number).

[88] Reliability Standards development as described in FERC–725 covers standards development initiated by NERC, the Regional Entities, and industry, as well as standards the Commission may direct NERC to develop or modify.

[89] *Reguls. Implementing the Nat'l Env't Pol'y Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[90] 18 CFR 380.4(a)(2)(ii) (2021).

[91] 5 U.S.C. 601–612.

[92] *Cf. Cyber Security Incident Reporting Reliability Standards,* Notice of Proposed Rulemaking, 82 FR 61499 (Dec. 28, 2017), 161 FERC ¶ 61,291 (2017) (proposing to direct NERC to develop and submit modifications to the Reliability Standards to improve mandatory reporting of Cyber Security Incidents, including incidents that might facilitate subsequent efforts to harm the reliable operation of the Bulk-Power System).

created electronically using word processing software must be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

62. Commenters that are not able to file comments electronically may file an original of their comment by USPS mail or by courier-or other delivery services. For submission sent via USPS only, filings should be mailed to: Federal Energy Regulatory Commission, Office of the Secretary, 888 First Street NE, Washington, DC 20426. Submission of filings other than by USPS should be delivered to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

VII. Document Availability

63. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*https://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in .pdf and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

64. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Dated: September 19, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22230 Filed 9–30–24; 8:45 am]

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DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 220

[Docket ID: DoD–2022–HA–0054]

RIN 0720–AB87

Medical Billing for Healthcare Services Provided by Department of Defense Military Medical Treatment Facilities to Civilian Non-Beneficiaries

AGENCY: Defense Health Agency (DHA), Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: As required by the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (NDAA–23), this document proposes to reduce financial harm to civilians who are not covered beneficiaries of the Military Health System (MHS), and who receive healthcare services at DoD military medical treatment facilities (MTF). The rulemaking, once finalized, will implement the MHS Modified Payment and Waiver Program (MPWP) through which the DoD will apply a sliding fee scale and/or a catastrophic fee waiver to medical invoices of certain non-beneficiaries and will accept payments from health insurers of non-beneficiaries as full payment except for copays, coinsurance, deductibles, nominal fees and non-covered services.

DATES: This rulemaking, once finalized, will apply to non-beneficiary patient medical care provided on or after June 21, 2023. Comments to this proposed rule are being accepted and must be received by December 2, 2024.

ADDRESSES: You may submit comments, identified by docket number and/or Regulation Identifier Number (RIN) number and title, by any of the following methods:

- *Federal eRulemaking Portal: https://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, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: Ms. Merlyn Jenkins, phone number: (703) 681–7346, mailing address: Office of the Secretary of Defense for Health Affairs, Health Resources Management and Policy, 1200 Defense Pentagon, Washington, DC 20301–1200; email address: *mailto:merlyn.jenkins.civ@health.mil.*

SUPPLEMENTARY INFORMATION: The NDAA–23 also grants the Director of DHA discretionary authority to waive assessment of medical fees of non-beneficiaries when the healthcare provided enhances the knowledge, skills, and abilities (KSAs) of healthcare providers, as determined by the Director of DHA. The DHA is proposing to implement the amendments to 10 U.S.C. 1079b enacted through the NDAA–23. By statute (Pub. L. 117–263, div. A, title VII, § 716(c), Dec. 23, 2022, 136 Stat. 2661), the sliding fee scale and/or catastrophic fee waivers apply to bills for healthcare services provided at MTFs on or after June 21, 2023.

I. Background and Authority

Title 10, United States Code (U.S.C.), section 1073d requires the Department of Defense (DoD) to maintain MTFs for the purposes of supporting the medical readiness of the armed forces and the readiness of deployable medical personnel. To maintain medical currency and bolster the KSAs of DoD healthcare providers, the DoD renders emergency, trauma, and other medical services to beneficiaries of the MHS which consist of service members and former service members, and their dependents. The MHS may provide healthcare services to other individuals who are not eligible beneficiaries, in certain circumstances, as authorized by law, and typically on a reimbursable basis (Pub. L. 114–328, 717(c), Dec. 23, 2016, as amended (10 U.S.C. 1071 note); and § 1074(c)).

Proposed rules implementing DoD's authority under 10 U.S.C. 1095 and related provisions of law to compute reasonable charges for inpatient and ambulatory (outpatient) care provided by MTFs, including charges for pharmaceuticals, durable medical equipment, supplies, immunizations, injections, or other medications, are at 32 CFR part 220, last updated on August 20, 2020 (55 FR 21742–21750). Medical billing is structured under three existing healthcare cost recovery programs: Third Party Collections (10 U.S.C. 1095); Medical Services Account (10 U.S.C. 1079b, 1085, and 1104); and Medical Affirmative Claims (42 U.S.C. 2651–2653). The rates used for billing are modeled after the rates published by

the Centers for Medicare & Medicaid Services. The rates are approved annually by the Assistant Secretary of Defense for Health Affairs (ASD(HA)) and published on the DoD Comptroller's website at *https://comptroller.defense.gov/Financial-Management/Reports/rates2023/*. Funds collected through the healthcare cost recovery programs are used to enhance healthcare delivery at MTFs.

In carrying out the DoD's healthcare cost recovery programs, charges and fees for care provided are assessed, as applicable, to civilian non-beneficiary patients who receive treatment at MTFs. When medical care is provided, such individuals become indebted to the United States. The DoD has authority under the Debt Collection Improvement Act of 1996 (DCIA) (Pub. L. 104–134) to compromise, or terminate the collection of, claims involving monetary indebtedness to the United States. The Federal Claims Collection Standards (FCCS) promulgated at 31 CFR parts 900through 904, which implement the DCIA, require that Federal agencies aggressively collect all debts arising out of activities of that agency. Collection activities must be undertaken promptly with follow-up action taken as necessary. Although an individual's financial circumstances are considered in applying the FCCS, the relevance of such information in determinations concerning debt compromise or termination concerns the likelihood of repayment or successful enforced collection within a reasonable period of time, rather than the impact on or financial harm to an individual that is consequential to being indebted. Accordingly, DoD MTFs have generated medical claims and invoices for care to civilian non-beneficiaries rendered within MTFs and have administered delinquent accounts consistent with the FCCS.

Title 10 U.S.C. 1079b, as amended by section 716 of NDAA–23, establishes financial harm to certain individual civilian non-beneficiaries as a statutory factor used in setting the amount of fees and charges assessed.

II. Problem Being Addressed Through This Rulemaking

Due to the high cost of healthcare in the United States and the mandate for Federal agencies to aggressively pursue collection of debts under FCCS, civilian non-beneficiaries who were provided emergency or trauma healthcare services in DoD MTFs have experienced financial harm after receiving substantial medical bills from MTFs. The DoD does not have authority to forgive indebtedness for MTF charges outside of the FCCS and has not had authority to discount charges and fees for medical care, in contrast to for-profit and non-profit hospitals that offer various financial assistance policies (FAPs). In consequence, Congress wholly amended 10 U.S.C. 1079b via section 716 of NDAA–23. Section 716 directs DoD to apply a sliding fee and/or a catastrophic fee waiver when assessing fees and charges to non-beneficiaries. For non-beneficiaries with health insurance, Section 716 directs DoD to accept payments from health insurers as full payment and to not balance bill non-beneficiaries except for copays, coinsurance, deductibles, nominal fees, and non-covered services. It also provides the Director of DHA conditional, discretionary authority to waive the assessment of fees that otherwise would be charged to non-beneficiaries when the healthcare provided enhances the KSAs of healthcare providers, as determined by the Director of DHA. The NDAA for FY 2017 (NDAA–17) authorizes provision of such care on a reimbursable basis to civilians who are not covered beneficiaries. Public Law 114–328, § 717(c), Dec. 23, 2016, as amended, 10 U.S.C. 1071 note.

III. Alternatives Considered

Section 716(c) of NDAA–23 mandates that DoD implement the amendments to 10 U.S.C. 1079b within 180 days of enactment. With this constrained timeline, the DoD undertook expedited research efforts to ascertain whether private sector hospitals offered programs similar to what the statute mandates and which might serve as a model for the DoD. Research conducted indicated that while there is financial reporting of charitable care and FAPs by non-Federal entities that provide medical care, there is no single accessible and authoritative source which outlines the content and structure of those programs. Programs vary widely across the researched entities. The market research also included a review of the rules pertaining to eligibility for Federal and State programs such as Medicaid. The research provided a few alternative models for consideration in establishing the MHS MPWP, including:

- Alternative #1: Although charity care policies vary by state, generally, for-profit and non-profit hospitals determine a patient's eligibility for their FAPs by comparing the applicant's annual household income against the Federal Poverty Guidelines (FPGs). The FPGs are published annually by the Department of Health and Human Services pursuant to 42 U.S.C. 9902(2). There are separate FPGs for the contiguous 48 states and Washington DC, for Alaska, and for Hawaii. The Census Bureau annually publishes FPG thresholds. The threshold is a statistical calculation used to identify the number of people living in poverty. There is no geographic variation; the same figures are used for all 50 states and Washington DC. The Office of Management and Budget (OMB) designates the Census Bureau poverty thresholds as the Federal Government's official statistical definition of poverty. The FPGs are also used by State and Federal agencies for determining an individual's eligibility for programs such as Medicaid.
- Alternative #2: Both for-profit and non-profit hospitals often offer discounted charges and fees on a sliding scale based upon the patient's household income when compared to the FPGs. Predominantly, discounts are offered to individuals whose household income falls within the range of 125 percent to 400 percent of the FPGs, with most hospitals offering discounts to patients whose income is at or below 200 percent of the FPGs.
- Alternative #3: Most private sector hospitals do not offer programs, additional to their needs-based FAPs for further waiver of charges or fees, that are analogous to § 1079b(c)(3)'s mandate for a DoD catastrophic fee waiver program, but a few will limit a patient's bill to a maximum percentage of the patient's household income (range of 10 to 20 percent of monthly income). In addition, we examined the maximum percentage that agencies generally can administratively garnish from an individual's monthly income (generally 15 percent of monthly income). See 31 U.S.C. 3720D(b)(1); 31 CFR 285.11.

IV. Recommended Proposed Policy

The three alternative models identified through market research represent fair and reasonable approaches that could readily be adopted for use in the administration of the MHS MPWP, with some modifications, and without incurring significant costs to implement. This regulation's proposed way forward is a combination of all three alternatives that make up the recommended policy. Specifically:

- Alternative #1: Since 10 U.S.C. 1079b mandates the application of a sliding scale and catastrophic fee waivers, the FPGs will be used as the measure to determine a patient's eligibility for these discounts. Alternative #2: The FPG range for eligibility for the sliding scale discount set by the ASD(HA) will be published

annually on the DoD Comptroller's Reimbursement Rates website available at *https://comptroller.defense.gov/Financial-Management/Reports/rates2024/.* The ASD(HA) may revise the range, when appropriate, to mitigate financial harm. Alternative #3: Eligibility for a catastrophic fee waiver will be limited based on a maximum percentage of a patient's monthly household income determined by the ASD(HA) and published annually on the DoD Comptroller's Reimbursement Rates website. The ASD(HA) may revise the percentage applied to household income, when appropriate, to mitigate financial harm.

In summary, the DoD proposes to adopt and implement fair and reasonable application of a sliding scale and catastrophic fee waivers in accordance with precedent and market best practices. The FPGs will be used as the definitive measure to determine a patient's eligibility for discounts and waivers.

The FPG range of eligibility for the sliding scale discount will be published annually on the DoD Comptroller's Reimbursement Rates website, giving DoD maximum flexibility to mitigate financial harm.

The catastrophic percentage will be published annually on the DoD Comptroller's Reimbursement Rates website, giving DoD maximum flexibility to mitigate financial harm.

V. Other Applicable Authority

Section 717 of NDAA–17 conditionally authorizes DoD to evaluate and treat civilian non-beneficiaries at MTFs if the evaluation and treatment is necessary to maintain medical readiness skills and competencies of healthcare providers. Section 717(c) mandates that DoD bill such individuals for the costs of such healthcare services provided. By amending 10 U.S.C. 1079b, section 716 of NDAA–23 has provided discretionary authority to waive an individual's responsibility to pay those statutorily mandated charges if the provision of care enhances the KSAs of healthcare providers, as determined by the DHA. If, under 10 U.S.C. 1079b(b), DoD elects to waive charges it is otherwise statutorily required to collect from an individual, any resulting discharge of indebtedness may need to be reported to the Internal Revenue Service (IRS) in accordance with the reporting requirements at 26 U.S.C. 6050P. DoD may also be required to issue a Form 1099–C, ''Cancellation of Debt'' (OMB Control Number 1545–1424), available at *https://www.irs.gov/pub/irs-pdf/f1099c.pdf,* to the patient in accordance with the same reporting requirements. This discharge of indebtedness could result in gross income being attributed to the patient under 26 U.S.C. 61. Authority provided by § 1079b(c) to adjust or waive assessment of fees and charges for medical care will be exercised by applying criteria applicable to civilian non-beneficiaries, rather than by exercising discretion to discharge indebtedness with respect to non-beneficiaries. Consequently, to reduce avoidable gross income to a patient under 26 U.S.C. 61, DoD will consider a waiver under 10 U.S.C. 1079b(b) of an individual's responsibility to pay charges only after any sliding scale discounts and catastrophic cap on charges have been applied.

VI. Summary of Current Billing and Collection Processes Involving Non-Beneficaries

For non-beneficiary medical encounters occurring prior to June 21, 2023, an MTF processes a bill to either the patient, the patient's third-party insurance, or to another guarantor. The current legal framework to process non-beneficiary bills is established under 10 U.S.C. 1079b (Procedures for Charging Fees to Civilians). Collection of medical debt resulting from medical bills is subject to the DCIA.

Title 10 U.S.C. 1079b directs the Secretary of Defense to implement procedures by which a non-beneficiary will be billed. The ASD(HA) publishes medical rates packages that are updated annually. The ASD(HA) rates reflect the full cost to the Government of providing care to a non-beneficiary patient; the rates generally reflect the same amounts that DoD reimburses to civilian healthcare providers when care is rendered outside of an MTF to a beneficiary patient, and they are also the same rates that DoD uses to bill third-party health insurers (under 10 U.S.C. 1095) when a beneficiary patient receives care in an MTF.

A bill generated for care at an MTF must be paid in full, whether by the patient, medical insurer, or other guarantor. The full amount is pursued against the patient and/or the patient's guarantor. If the debt is not paid within 180 days of the due date (or an installment plan due date), the debt is transferred to the Cross-Servicing Program (''Cross-Servicing'') of the Department of the Treasury, Bureau of the Fiscal Service, for collection. Agencies may also refer eligible debts that are less than 180 days delinquent to the Cross-Servicing program.

Under the current legal framework there is no authority to reduce the amount of a debt owed by a patient who received care at an MTF. There is an ability to compromise a balance that cannot be paid by the non-beneficiary. However, the FCCS governing a compromise requires that a debtor reasonably demonstrate the inability to pay the debt balance, which entails evaluation of a debtor's current financial condition, and obtaining a credit report or other financial information in order to evaluate the debtor's assets, liabilities, income, and expenses.

VII. Changes With This Rulemaking

A. MHS Modified Payment and Waiver Program

Under title 10 U.S.C. 1079b, as amended by NDAA–23, the DoD is required to apply a sliding scale and/or catastrophic fee waivers to medical invoices generated by MTFs in certain instances. The statute also gives the Director of DHA discretionary authority to waive charges mandated by section 717 of NDAA–17, when the care provided enhances the medical KSAs of MHS healthcare providers, as determined by the Director of DHA. Consequently, the DoD proposes to implement § 1079b authorities with the objective of mitigating financial harm to civilian non-beneficiaries. The MHS MPWP will be applied uniformly to all civilian non-beneficiary patients who apply to the program. Applicable discounts will be based only on household income and family size. All patients will be eligible to apply for the MHS MPWP in order to mitigate financial harm.

The MHS MPWP will involve a cascading, sequential process that begins with collecting health insurance information from all patients. For patients with health insurance, the patient must agree to allow DoD to file medical claims on the patient's behalf. Patients with health insurance who do not consent to allowing DoD to file insurance claims on their behalf will not be eligible for the MHS MPWP. By allowing DoD to file insurance claims on the patient's behalf, the DoD will be assured that insurance remittances and Explanation of Benefits (EOB) documents are properly sent to the DoD. This will enable the DoD to adjust balances on the patient's account inclusive of the amount paid by the insurance carrier, amounts disallowed, and amounts that are the patient's responsibility as determined by the insurance carrier (*i.e.,* copays, coinsurance, deductibles, nominal fees and non-covered services). Once the patient's account is properly adjusted in accordance with the EOB, the DoD will bill insured patients only for portions of

the bill that are their responsibility. For patients without health insurance, DoD will bill the patient.

Patients who are uninsured, underinsured and/or who have a remaining balance for copay, coinsurance, deductible, nominal fee, or non-covered services may apply to the MHS MPWP for application of the sliding scale discounts and catastrophic fee waiver discounts.

Patients unable to pay the remaining balance after the application of the sliding scale and catastrophic fee waiver may also apply for a waiver of their medical fees under 10 U.S.C. 1079b(b), by submitting a completed DD Form 3201–1, ''Request for Medical Debt Waiver, Military Health System Modified Payment and Waiver Program'' (*https://www.esd.whs.mil/Directives/forms/dd3000_3499/*). Waivers may be approved when—at the discretion of the DHA Director, the care rendered to the patient enhanced the KSAs of the healthcare providers. KSAs are a set of clinical skill requirements a provider needs in order to provide medical care/treatment in the deployed environment. Additionally, waivers will be used sparingly and generally only in instances where severe financial harm cannot be reasonably mitigated through application of discounts. Waivers may result in financial reporting to the IRS and issuance of an IRS Form 1099–C to the patient. Generally, waivers may be granted if: (a) The patient has completed a DD Form 2569, ''Third Party Collection Program/Medical Services Account/Other Health Insurance'' (OMB Control Number 0720–0055), available at *https://www.esd.whs.mil/Directives/forms/dd2500_2999/;* (b) the patient has submitted a completed application for the MHS MPWP via the DD Form 3201 and any and all appropriate discounts have been applied; (c) DHA competent medical authority confirms in writing on the DD Form 3201–1 that the care provided to the patient enhanced the KSAs of the DoD healthcare provider; and (d) the DHA determines that a waiver is necessary to mitigate severe financial harm. If the above conditions are met, the Director of DHA may exercise discretionary authority to waive the medical invoice.

B. Collection of Health Insurance Information

All patients receiving healthcare services at a DoD MTF are asked to complete a DD Form 2569 to collect health insurance information along with the patients' consent for the DoD to file a claim on their behalf. The form advises patients that their ''records may be disclosed outside of DoD to healthcare clearinghouses, commercial insurance providers, and other third parties in order to collect amounts owed to the Department of Defense.''

C. Billing Insurance

For non-beneficiaries with health insurance who complete the DD Form 2569, the DHA will bill the non-beneficiary's health insurance and accept remittances. When payment or an EOB is received from the insurance company, the DoD will not bill the patient except for copays, coinsurance, deductibles, nominal fees, and amounts for non-covered services. The DoD will suspend collection against the patient for up to 120 days to allow the patient's insurance to process the claim. The DoD will not bill the patient until a determination on payment and/or an EOB is received from the insurance company, or 120 days has lapsed, whichever comes first. If the DoD receives an insurance remittance after 120 days have elapsed, the DoD will deposit the check, adjust the patient's account in accordance with the EOB, and issue the patient a refund for overpayments, if any have been received. The DoD will ensure that medical invoices sent to the patient reflect information about the MHS MPWP, including instructions for applying to the program.

D. Delinquent Accounts

Delinquent accounts will be processed in accordance with the DCIA as implemented by the FCCS.

E. Applications for MHS MPWP Received for Delinquent Accounts Transferred to the Department of the Treasury

Individuals may still submit an application for the MHS MPWP even if their account has been transferred to Cross-Servicing; however, any reductions to the medical invoice from the MPWP may be subject to interest, penalties, and costs. For patients who apply and are eligible for a reduction under the MHS MPWP, the DoD will recall the debt from Cross-Servicing. For patients who apply and are ineligible for a reduction under the MHS MPWP, the debt will remain at Cross-Servicing. Patients may request reconsideration for the MHS MPWP when their financial circumstances appear to have significantly changed.

F. Income Verification and Collection of Income Information

Required MHS MPWP application documentation. Patients who desire to apply for the MHS MPWP must do so by completing a DD Form 3201, ''Application for Military Health System Modified Payment and Waiver Program'' (OMB Control Number PENDING), available at *https://www.esd.whs.mil/Directives/forms/dd3000_3499/,* and submitting the requisite documents. All DoD patient invoices will include a description of the documents that patients must submit together with DD Form 3201 in order to demonstrate their eligibility for the MHS MPWP. To demonstrate eligibility for a sliding fee/catastrophic fee waiver, the patient must first complete a DD Form 2569 (even in cases where the patient possesses no health insurance). Patients must also attach a copy of their most recent filed Federal income tax return and the patient's (or guarantor's if the patient is a minor) last two pay stubs. Patients who did not file a Federal income tax return for the preceding year, must certify that they did not file an income tax return on the DD Form 3201. Additionally, when the patient has no verifiable income, the patient must provide a certification to that effect on the DD Form 3201. The last two pay stubs or disability check stubs may be used if no Federal income tax return is provided in conjunction with the patient's certification of annual income on the DD Form 3201 to determine the patient's income. Finally, when the patient has certified to having no verifiable income and has neither a tax return nor pay stubs, other information may be used to validate the patient's lack of income including, but not limited to, the last two bank statements (savings and checking), or a Social Security benefits letter.

For patients with health insurance, the patient must agree to allow DoD to file medical claims on the patient's behalf.

G. Application for MHS MPWP Discounts and Waivers

Consideration for sliding scale and catastrophic fee waiver requires evaluation of the patient's household income. To receive consideration for the sliding fee discount or catastrophic fee waiver, or to be considered for a full waiver of fees under 10 U.S.C. 1079b(b), the patient must apply to the MHS MPWP after receiving the MTF medical invoice by completing and submitting the DD Form 3201 (OMB Control Number PENDING). Applications can be made by: (1) patients with a remaining balance after insurance has been billed by the DoD and the insurance remittance and/or EOB has been received by the DoD; (2) by patients without insurance who have a balance; and (3) by patients with a remaining balance after recovery from tortfeasors is

made. Application instructions will be printed on the DoD invoice. Applicants to the MHS MPWP will be notified of the status of their application via the following methods: (1) For approved applications, the DoD will issue to the patient a modified medical invoice reflecting the balance due after applying the sliding fee and/or catastrophic fee waiver; (2) for disapproved applications, the DoD will issue a letter reflecting the reason why the application was disapproved. The letter will inform the patient of the right to reapply should the patient's financial circumstances change.

H. Sliding Fee Discount

Applicants to the MHS MPWP will first be considered for a sliding fee discount, and then for a catastrophic fee waiver. The threshold for the sliding fee discount will be set to a 100 percent medical bill discount and no nominal fee for applicants whose annual household income is at or below 100 percent of the applicable year's FPGs; and a 100 percent medical bill discount plus a stratified nominal fee for applicants whose annual household income is greater than 100 percent and up to 400 percent of the applicable year's FPGs. The ASD(HA) may periodically adjust the threshold limits by issuing policy to be published on the DoD Reimbursement Rates website (*https://comptroller.defense.gov/Financial-Management/Reports/*). Stratified nominal fees are generally established in a manner that is equitable with what military retirees enrolled in the TRICARE program would be required to pay in the private sector for comparable services. The ASD(HA) will annually set the stratified nominal fees for outpatient and inpatient care and may periodically adjust the nominal fee by issuing policy to be published on the DoD Reimbursement Rates website (available at *https://comptroller.defense.gov/Financial-Management/Reports/*). The initial nominal stratified fees are as follows:

Household income falls within the below federal poverty guidelines (%)	Inpatient fee	Outpatient fee
0–100	$0	$0
101–120	750	50
121–140	1,250	50
141–160	2,000	50
161–180	3,000	50
181–200	4,000	50
201–220	5,000	50
221–240	6,000	50
241–260	7,000	50
261–280	8,000	50
281–300	9,000	50
301–320	10,000	50
321–340	11,000	50
341–360	12,000	50
361–380	13,000	50
381–400	14,000	50

Applicants with annual household income of greater than 400 percent of the applicable year's FPGs will not be eligible for a sliding fee discount but may be eligible for a catastrophic fee waiver.

I. Catastrophic Fee Waiver

The catastrophic fee waiver is based on a formula for adjusting the medical invoice over a 36-month period. The catastrophic fee waiver consists of limiting the patient's medical bill to a maximum percentage of the patient's monthly household income multiplied by 36 months and waiving fees associated with the balance of the medical bill that exceeds the calculation. If the calculation yields an amount greater than the original medical bill, then the catastrophic fee waiver will not be applicable. The maximum percentage will be set to 5 percent of the patient's monthly household income multiplied by 36 months. The ASD(HA) will annually set the catastrophic fee waiver percentage and may periodically adjust the percentage by issuing policy to be published on the DoD Reimbursement Rates website.

J. Collection in Installments

As part of the implementation of the sliding fee and catastrophic fee waiver protections to prevent severe financial harm, patients eligible for the MHS MPWP may have amounts collected in installments for a term not to exceed 72 months. Additionally, patients may request to pay their balance by lump sum. The minimum amount that may be paid by installment per month is $25.

K. Alternative Authority for Waiver of Medical Fees Based on KSA Enhancement

In accordance with 10 U.S.C. 1079b(b), the Director of DHA may issue a full waiver of fees for care provided to civilian non-beneficiaries if determined by the Director of DHA to be appropriate. Accordingly, consideration of a waiver of medical fees will occur on a case-by-case basis and only after application for the MHS MPWP has occurred. A waiver under 10 U.S.C. 1079b(b) of $600 or more will result in reporting to the IRS and issuance of a Form 1099–C to the non-beneficiary for the amount waived. Waivers under 10 U.S.C. 1079b(b) shall be used sparingly and only when the Director of DHA determines that the MHS MPWP did not sufficiently mitigate severe financial harm and receives certification from competent medical authority that the care provided to the patient enhanced the KSAs of the treating healthcare provider(s). All patient invoices will include a statement that the patient may apply for a waiver based on 10 U.S.C. 1079b(b) and 32 CFR 220.12(n) and include information on how to submit a waiver request.

L. Applicability of the MHS MPWP to Tortfeasors and Third-Party Payers

No discount or waiver of fees under 10 U.S.C. 1079b shall be interpreted to be applicable to tortfeasors under the Federal Medical Care Recovery Act (FMCRA), 42 U.S.C. 2651 or to third-party payers under 10 U.S.C. 1095. Patients treated at DoD MTFs are responsible to identify on the DD Form 3201 whether their injury/disease was caused by a third party. To be eligible to obtain any discounts or waivers

under the MHS MPWP, the patient must consent and agree to cooperate with the United States to recover the cost of care against any liable tortfeasor or insurance under the FMCRA. Patients who have a remaining balance after recoveries from third-party tortfeasors or their insurers, may apply for relief of any remaining medical debt or may be refunded amounts already paid toward their medical debt if no balance is owed.

VIII. Expected Impact of This Rulemaking

DoD anticipates that section 716 of the NDAA–23 will substantially mitigate serious financial harm to non-beneficiaries through application of a sliding fee and/or a catastrophic fee waiver to medical invoices generated by MTFs. DoD anticipates that the Director of DHA's discretionary authority to waive fees for non-beneficiaries will also contribute to reducing severe financial harm.

The anticipated costs for the MHS MPWP include only the time required for a patient's application to be completed (see Paperwork Reduction Act section of this preamble) and reviewed. This includes time required for civilian non-beneficiary patients to complete the associated DD Form 3201 declaring their income, DoD to receive and assess the application, followed by the determination of the eligibility for a sliding scale discount, catastrophic fee waiver, or waiver under 10 U.S.C. 1079b(b) by the Director of DHA, and the response time for the decision. The total estimated time is less than 90 days. In addition, costs may be incurred for patients who desire to apply for a waiver of their medical debt (via a DD Form 3201–1) after they have been approved for the MHS MPWP.

(1) Government Burden Related to the DD Form 3201, ''Application for Military Health System Modified Payment and Waiver Program'':

TABLE A—GOVERNMENT BURDEN RELATED TO THE DD FORM 3201, ''APPLICATION FOR MILITARY HEALTH SYSTEM MODIFIED PAYMENT AND WAIVER PROGRAM''

Part A: Labor cost to the Federal government	Part B: Operational and maintenance costs
(1) Collection Instrument: DD Form 3201	(1) Cost Categories.
(a) Number of Total Annual Responses: 2,160	(a) Equipment: $0.
(b) Processing Time for each Response: 10 minutes	(b) Printing: $0.15/printing adjusted medical bills * 2,160 = $324.
(c) Hourly Wage of Worker(s) Processing Responses: $17.28	(c) Postage: $0.66 * 2,160 = $1,425.60.
(d) Cost to Process Each Response: $2.88	(d) Software Purchases: $0.
(e) Total Cost to Process Responses: $6,220.80	(e) Licensing Costs: $0.
(2) Overall Labor Burden to the Federal Government	(f) Other (Envelope): $0.24 * 2,160 = $518.40.
(a) Total Number of Annual Responses: 2,160	(2) Total Operational and Maintenance Cost: $2,268.00.
(b) Total Labor Burden: $6,220.80.	

Source: 2023 GS Pay Scale at GS–06, Step 1 (*https://federaljobs.net/salarybase/#Base_Rate_Chart*).
Source: Printing page cost (*https://www.ecfr.gov/current/title-32/subtitle-A/chapter-I/subchapter-N/part-286/subpart-E/section-286.12*). Postage costs: United States Postal Service, https://store.usps.com/store/results/shipping-supplies/_/N-7d0v8v#content.

Part C: Total cost to the Federal government
(1) Total Labor Cost to the Federal Government: $6,220.80.
(2) Total Operational and Maintenance Costs: $2,268.00.
(3) Total Cost to the Federal Government: $8,488.80.

(2) Government Burden Related to the DD Form 3201–1, ''Request for a Medical Debt Waiver, Military Health System Modified Payment and Waiver Program'':

TABLE B—GOVERNMENT BURDEN RELATED TO THE DD FORM 3201–1, ''REQUEST FOR A MEDICAL DEBT WAIVER, MILITARY HEALTH SYSTEM MODIFIED PAYMENT AND WAIVER PROGRAM''

Part A: Labor cost to the Federal government	Part B: Operational and maintenance costs
(1) Collection Instrument: DD Form 3201–1	(1) Cost Categories.
(a) Number of Total Annual Responses: 1,080	(a) Equipment: $0.
(b) Processing Time per Response: 4 minutes	(b) Printing: $0.15/printing adjusted medical bills * 1,080 = $162.
(c) Hourly Wage of Worker(s) Processing Responses: $17.28	(c) Postage: $0.66 * 1,080 = $712.80.
(d) Cost to Process Each Response: $1.15	(d) Software Purchases: $0.
(e) Total Cost to Process Responses: $1,244.16	(e) Licensing Costs: $0.
(2) Overall Labor Burden to the Federal Government	(f) Other (Envelope): $0.24 * 1,080 = $259.20.
(a) Total Number of Annual Responses: 1,080	(2) Total Operational and Maintenance Cost: $1,134.00.
(b) Total Labor Burden: $1244.16.	

Source: 2023 GS Pay Scale at GS–06, Step 1 (*https://federaljobs.net/salarybase/#Base_Rate_Chart*).

Part C: Total cost to the Federal government
(1) Total Labor Cost to the Federal Government: $1,244.16.
(2) Total Operational and Maintenance Costs: $1,134.00.
(3) Total Cost to the Federal Government: $2,378.16.

IX. Regulatory Compliance Analysis

A. Executive Order 12866, ''Regulatory Planning and Review,'' as Amended by Executive Order 14094, ''Modernizing Regulatory Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

Executive Order 12866, as amended by 14094 (88 FR 21879, April 11, 2023), and Executive Order 13563 direct agencies to assess all costs, benefits and available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, safety effects, distributive impacts, and equity). These Executive Orders emphasize the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This proposed rule has been designated significant, under section 3(f) of Executive Order 12866, as amended by Executive Order 14094.

B. Public Law 118–15, Div. B, Title III, ''Administrative Pay-As-You-Go Act of 2023''

Per the Administrative Pay-As-You-Go Act of 2023 (Fiscal Responsibility Act of 2023 (Pub. L. 118–5, div. B, title III)), agencies are required to submit certain information regarding the direct spending effects of their rules to OMB. Accordingly, the DoD does not anticipate an increase to direct spending, *i.e.,* mandatory net outlays, stemming from the implementation of this proposed rule. This proposed rule affects only DoD's annually appropriated (discretionary) salaries and expenses resources and does not affect direct spending. Healthcare services provided by MTFs are funded by discretionary appropriations. Generally, when MTFs render healthcare services to non-beneficiaries of the Department of Defense, such as those that will be covered by implementation of this proposed rule, the care is provided on a reimbursable basis. On average from 2019–2020, MTFs generated $235.6 million annually in medical bills for healthcare services rendered to non-beneficiaries. Of that amount, an average of 29 percent is reimbursed by the third-party health insurance plans of insured patients, while another 30 percent is written off in accordance with agreed upon terms of coverage. An average of 6 percent is collected from uninsured patients and those who are insured but have remaining coinsurance and co-pays; and an average of 35 percent is transferred to the Department of the Treasury for collection actions due to an individual's unresponsiveness to due process billing activity. Of the 35 percent transferred to the Treasury, many are undocumented individuals without Social Security Numbers. The Treasury has historically recovered approximately 1 percent of the amount transferred by MTFs. All amounts recovered are deposited to the discretionary appropriation that funds MTF operations.

TABLE D—HISTORICAL ACTIVITY
[FY 2019–2020]

		Percent
Average Non-beneficiary Healthcare Billed by MTFs Annually	$235,618,719	
Average Paid by Third-Party Insurance	68,473,042	29
Insurance Write-off	70,685,616	30
Average Paid by Patients	13,160,172	6
Transferred to Treasury	82,621,796	35
Collected by Treasury	2,478,654	1

Uninsured non-beneficiary patients and those who are insured but have high coinsurance and co-pays will benefit most from implementation of this proposed rule. Of these uninsured and underinsured, we estimate a minimum of 50 percent will be eligible for a 100 percent discount of their MTF medical bill. From Calendar Years (CY) 2018 through 2021, the average inpatient medical bill for this patient population was $47,009; and the average outpatient medical bill was $150. In Bexar County, Texas, where most of these costs were incurred (*i.e.,* Brooke Army Medical Center in San Antonio, Texas), the median household income is $67,275 (per the 2020 U.S. Census Bureau) and the same source reports cite that the average number of persons living in each household in Bexar County is 2.71. Consequently, we estimate that this patient population will significantly benefit from this program. For example, using the 2020 U.S. Census Bureau data for Bexar County and the average inpatient and outpatient medical bill amounts for CYs 2018–2021, applying the MHS MPWP discounts would yield a reduction of 83 percent to the average inpatient medical bill (decreasing it from $47,009 to $8,000) and a 67 percent reduction to the average outpatient medical bill (decreasing it from $150 to $50).

CY 2018–2021	Average medical bill	MHS MPWP discount	% Discount	New bill
Inpatient	$47,009	$39,009	83	$8,000
Outpatient	150	100	67	50

Notes: Based on 2020 U.S. Census Bureau data for Bexar County, Texas, where median household income is $67,275 and the average number of persons living in each household is 2.71.

With the implementation of the MHS MPWP, we anticipate the percentage of cases being transferred to the Treasury for collection activity, and the average amounts paid for by uninsured and underinsured patients, being substantially decreased. While this may cause an increase in discretionary spending of the Defense Health Program appropriation; it will not cause an increase in mandatory net outlays (direct spending). The Administrative Pay-As-You-Go Act of 2023 is available at *https://www.whitehouse.gov/wp-content/uploads/2023/09/M-23-21-Admin-PAYGO-Guidance.pdf.*

C. Congressional Review Act (5 U.S.C. 801 et seq.)

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act), OMB's Office of Information and Regulatory Affairs has determined that this proposed rule does not meet the criteria set forth in 5 U.S.C. 804(2).

D. Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The ASD(HA) certified that this proposed rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The Regulatory Flexibility Act aims at taking into account the impact of regulations on small businesses, small organizations, small governmental jurisdictions, and small entities. More specifically, the law states ''. . . agencies shall endeavor . . . to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' (Pub. L. 96–354, September 19, 1980; section 2 (b)) The proposed amendments to 32 CFR part 220 do not impact the small entities referenced in this paragraph. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

E. Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532) requires agencies to assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2024, that threshold is approximately $183 million. This proposed rule will not mandate any requirements for State, local, or tribal governments, and will not affect private sector costs. An unfunded mandate occurs when a State, local, or tribal government must perform certain actions or offer certain programs but does not receive any Federal funds to make it happen. The Federal Government passes legislation requiring the program, but the law does not include any funding. This proposed rule will only affect a very narrow category of the public and it will not impact State, local, or tribal governments. Additionally, it will not affect private sector costs as all proposed actions would be completed by Federal agencies.

F. Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that this proposed rule contains information collection requirements. DoD has submitted the following proposal to OMB under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

(1) Respondent Burden Related to DD Form 3201, ''Application for Military Health System Modified Payment and Waiver Program.'' This is a new collection. Using the information collected on the form, DoD medical billing offices will determine whether the patient is eligible for the medical discount/waiver program. If the patient is eligible, the billing office will generate an adjusted medical bill and send it to the patient. If the patient is not eligible, the billing office will send written correspondence to the patient, informing them that they are not eligible for the discount program and of their right to reapply should their financial circumstances change. Processing of the application will be annotated on the last page of the application. The application will be filed in the billing office's official records.

	Part A: Estimation of respondent burden		Part B: Labor cost of respondent burden
(1)	Collection Instrument: DD Form 3201	(1)	Collection Instrument: DD Form 3201.
(a)	Number of Respondents: 2,160	(a)	Number of Total Annual Responses: 2,160.
(b)	Number of Responses Per Respondent: 1	(b)	Response Time: 4 minutes.
(c)	Number of Total Annual Responses: 2,160	(c)	Respondent Hourly Wage: $33.58.*
(d)	Response Time: 4 minutes	(d)	Labor Burden per Response: $2.24.
(e)	Respondent Burden Hours: 144 hours	(e)	Total Labor Burden: $4,835.52.
(2)	Total Submission Burden	(2)	Overall Labor Burden.
(a)	Total Number of Respondents: 2,160	(a)	Total Number of Annual Reponses: 2,160.
(b)	Total Number of Annual Responses: 2,160	(b)	Total Labor Burden: $4,835.52.
(c)	Total Respondent Burden Hours: 144 hours.		

Approximately 8,000 civilian non-beneficiary patients are treated at DoD MTFs annually. The U.S. Census Bureau estimates that 27 percent of Americans are uninsured. Based on that estimate, we anticipate that 2,160 (or 27 percent of 8,000) patients will not have insurance and may face serious financial harm stemming from MTF medical bills. We anticipate that those uninsured individuals will apply for the MHS MPWP each year.

* **Source:** *http://www.bls.gov/web/empsit/ceseesummary.htm* (Bureau of Labor Statistics national average hourly wage for all employees June 2023)

(2) Respondent Burden Related to DD Form 3201–1, ''Request for Waiver of Medical Debt, Military Health System Modified Payment and Waiver Program''. This is a new collection. The 10 U.S.C. 1079b statute grants the Director of the Defense Health Agency discretionary authority to grant waivers to medical bills in certain instances. Accordingly, the DD Form 3201–1 may be used by non-beneficiary patients to apply for a waiver. For patients who are approved for waivers (not discounts) under the Director of the Defense Health Agency's discretionary authority, the waived amount, along with the patient's SSN and address, will be relayed to the IRS.

	Part A: Estimation of respondent burden		Part B: Labor cost of respondent burden
(1)	Collection Instrument: DD Form 3201–1	(1)	Collection Instrument: DD Form 3201–1.
(a)	Number of Respondents: 1,080	(a)	Number of Total Annual Responses: 1,080.

	Part A: Estimation of respondent burden		Part B: Labor cost of respondent burden
(b)	Number of Responses Per Respondent: 1	(b)	Response Time: 4 minutes.
(c)	Number of Total Annual Responses: 1,080	(c)	Respondent Hourly Wage: $33.58.
(d)	Response Time: 4 minutes	(d)	Labor Burden per Response: $2.24.
(e)	Respondent Burden Hours: 72 hours	(e)	Total Labor Burden: $2,417.76.
(2)	Total Submission Burden	(2)	Overall Labor Burden.
(a)	Total Number of Respondents: 1,080	(a)	Total Number of Annual Reponses: 1,080.
(b)	Total Number of Annual Responses: 1,080	(b)	Total Labor Burden: $2,417.76.
(c)	Total Respondent Burden Hours: 72 hours.		

Of the 2,160 anticipated applicants to the program, we anticipate that most will receive a substantially discounted medical bill. However, this estimate is prepared with a worst-case scenario in which half of the applicants desire to apply for a waiver.

Written comments and recommendations on the proposed information collection should be sent to Mr. Matt Eliseo at the Office of Management and Budget, DoD Desk Officer, Room 10102, New Executive Office Building, Washington, DC 20503, with a copy to Ms. Merlyn Jenkins at the Office of the Secretary of Defense for Health Affairs, Health Resources Management and Policy, 1200 Defense Pentagon, Washington, DC 20301–1200. Comments can be received from 30 to 60 days after the date of this notice, but comments to OMB will be most useful if received by OMB within 30 days after the date of this notice.

You may also submit comments identified by docket number and title through the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments.

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.

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. Merlyn Jenkins at the Office of the Secretary of Defense for Health Affairs, Health Resources Management and Policy, 1200 Defense Pentagon, Washington, DC 20301–1200, (703) 681–7346.

G. Executive Order 13132, ''Federalism''

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts state law, or otherwise has federalism implications. This proposed rule will not have a substantial effect on State and local governments.

H. Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments''

Executive Order 13175 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on one or more Indian tribes, preempts tribal law, or effects the distribution of power and responsibilities between the Federal Government and Indian tribes. This proposed rule will not have a substantial effect on Indian tribal governments.

List of Subjects in 32 CFR Part 220

Accounts receivable, Civilian medical debt, Claims, Healthcare, Health insurance, Medical billing, Medical debt, Medical debt waiver, Military medical treatment facilities, Military personnel, and Third party collections.

Accordingly, the DoD proposes to amend 32 CFR part 220 to read as follows:

PART 220—MEDICAL BILLING FOR HEALTHCARE SERVICES PROVIDED BY DEPARTMENT OF DEFENSE MILITARY MEDICAL TREATMENT FACILITIES TO CIVILIAN NON–BENEFICIARIES

■ 1. The authority citation for part 220 is revised to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. 1095, 1097b(b), 1079b; 31 U.S.C. 3711, 3717; and 42 U.S.C. 2651.

■ 2. The part heading is revised to read as set forth above.

■ 3. Add § 220.12 to reads as follows:

§ 220.12 Medical billing for healthcare services provided by DoD Military Medical Treatment Facilities to civilian non-beneficiaries.

(a) *Applicability.* (1) This section applies to all persons who receive reimbursable care in a military medical treatment facility (MTF) who are not covered beneficiaries of the Department of Defense (DoD) as defined in § 220.14, other than persons who receive care in an MTF pursuant to an agreement between the United States and a foreign government or other entity.

(2) This section does not apply to third persons (or their insurers) with a tort liability under the Federal Medical Care Recovery Act (FMCRA) (42 U.S.C. 2651) or third-party payers under 10 U.S.C. 1095. The discounts and waivers implemented by this section may not be used to reduce the value of the care and treatment that is recoverable from those third persons (or their insurers) under the FMCRA or 10 U.S.C. 1095.

(b) *Definitions.* (1) *Military Health System (MHS) Modified Payment and Waiver Program (MPWP).* The MHS MPWP is a DoD program to implement an enacted Fiscal Year 2023 National Defense Authorization Act (2023–NDAA) amendment to section 1079b of title 10, United States Code (U.S.C.). Section 716 of the 2023–NDAA amended 10 U.S.C. 1079b to require, inter alia, the Director of the Defense Health Agency to reduce fees that would otherwise be charged to civilian non-beneficiaries for medical care according to a sliding scale and to implement a catastrophic fee waiver to prevent severe financial harm. It also granted the Director of the Defense Health Agency with discretionary authority to issue waivers of fees for medical care if the provision of such care enhances the knowledge, skills, and abilities of healthcare providers.

(2) *Covered payer.* A third-party payer or other insurance, medical service, or health plan.

(3) *Covered by a covered payer.* A medical item or service is deemed to be covered by a covered payer when:

(i) The patient possesses health insurance that is in effect on the date(s) that the item or service was provided;

(ii) The health insurance plan provides coverage for the geographic area where the care was delivered;

(iii) The care provided to the patient is an item or service covered by the terms of the insurance plan, and;

(iv) The health insurance plan provides coverage for care rendered in a U.S. Government/DoD facility;

(v) The insurer agrees to pay the facility directly;

(vi) The insurer agrees to provide the facility with an Explanation of Benefits (EOB) that details how the insurer processed the claims according to the insurance plan; and

(vii) The patient authorizes the DoD to file insurance claims against the insurance policy.

(4) *Non-covered item or service.* A medical item or service that is not covered by the terms of the insurance plan.

(5) *Third-party payer* and *insurance, medical service, or health plan* have the meaning given those terms in 10 U.S.C. 1095(h).

(6) *Knowledge, skills, and abilities (KSAs).* KSAs are a set of clinical skill requirements that a healthcare provider needs in order to provide medical care or treatment in the deployed environment.

(7) *Reasonable value of medical care.* Reasonable value of medical care is defined in § 220.8. The reasonable value of medical care is based on the amount billed by the MTF before application of any sliding scale discount, catastrophic fee waiver discount, or other discount or waiver under this section.

(c) *Notifications concerning MHS MPWP.* The Assistant Secretary of Defense for Health Affairs (ASD(HA)) will maintain a public website containing information about the MHS MPWP, applicable forms (with links to the forms), and a fee discount calculator. The DoD will notify non-beneficiary patients of the availability of the MHS MPWP. Information about the MHS MPWP will be posted in MTFs (*e.g.,* in waiting rooms and information desks) and included in DoD patient invoices.

(d) *Requirement to complete a DD Form 2569.* MTFs will present the DD Form 2569, ''Third Party Collection Program/Medical Services Account/Other Health Insurance'' to all patients. It will also be available at *https://www.esd.whs.mil/Directives/forms/dd2500_2999/.* All patients (regardless of insurance status) must complete the DD Form 2569.

(1) Before applying for the MHS MPWP, all patients (regardless of health insurance status) must fully complete (including by signing) the DD Form 2569 and ensure that a current and accurate DD Form 2569 is on file with the applicable MTF. Successful completion of these steps is a condition of eligibility for the MHS MPWP.

(2) For patients with health insurance, the DoD will file insurance claims on behalf of the patient. Patients with health insurance who do not consent to allowing the DoD to file health insurance claims on their behalf will not be eligible for the MHS MPWP.

(3) *Updating the DD Form 2569.* The DoD may use a completed DD Form 2569 for multiple episodes of care. Unless a DD Form 2569 completed within the preceding 12 months for the patient is available, the DoD will solicit an updated DD Form 2569 from patients who receive a subsequent episode of care from the MTF. However, the lack of an updated form will not preclude the DoD from filing additional claims against encounters for the patient.

(e) *Notifications on Medical Invoices.* In addition to any notifications otherwise already required by law, regulation, or DoD policy, all DoD invoices will notify patients that–

(1) Patients must consent to DoD filing insurance claims on their behalf to be eligible for the MHS MPWP;

(2) The DoD will suspend fee assessment and patient billing actions against the debtor for up to 120 days while the DoD is pursuing an insurance claim or claim against a third-party payer;

(3) For patients who are covered by a covered payer, the DoD will only bill the patient for the insurer-assigned copays, coinsurance, deductibles, nominal fees, and non-covered services;

(4) The patient demonstrates potential eligibility for the MHS MPWP fee discounts and catastrophic fee waivers by completing and submitting DD Form 2569 and DD Form 3201, which may result in a discount of their medical invoice after pursuit or recovery of claims against third party payers (instructions for demonstrating eligibility, including deadline, will also be included);

(5) In addition to fee discounts and catastrophic fee waivers, patients may request a full waiver under 10 U.S.C. 1079b(b) by submitting a DD Form 3201–1, Request for Medical Debt Waiver, Military Health System Modified Payment and Waiver Program. Patients may be considered for a full waiver if they previously applied to the MHS MPWP and it did not sufficiently mitigate financial harm and if the applicable care provided is determined to enhance the KSAs of DoD healthcare providers. Waivers under 10 U.S.C. 1079b(b) may result in information reporting to the Internal Revenue Service and issuance of a Form 1099–C, Cancellation of Debt, and the waived amount(s) may constitute gross income to the patient under 26 U.S.C. 61;

(6) If fees or charges (including those reduced under the MHS MPWP) become delinquent due to non-payment, the DoD will establish a debt for the delinquent amount and commence efforts to collect the established debt, which may include transfer to the Department of the Treasury in accordance with applicable authority; and

(7) That invoices issued after reduction or waiver of charges under the MHS MPWP will reflect the date by which an unpaid account will become delinquent.

(f) *DoD medical billing rates.* Annually, the ASD(HA) publishes the rates that DoD uses for medical billing. Except for reasons listed in 32 CFR 220.8(f) or (g), the DoD rate will be used for all non-beneficiary billing, including billing to either the insurer or patient.

(g) *For non-covered items or services.* In any instance where an item or service is not covered by a covered payer, the DoD will bill the patient for the full amount of the service.

(h) *For patients who are potentially covered by a covered payer.* In any instance where a patient submits a DD Form 2569 that indicates that the patient possesses valid health insurance, the DoD will suspend any collections against the patient to allow time for the claim remittance to be processed by the insurer and for a valid EOB to be received, or until 120 days have passed since filing for payment from the insurance company, whichever comes first. Upon receipt of an EOB, the DoD will bill the patient only for those amounts that are designated by the insurance company as a copay, coinsurance, deductible, nominal fee, or non-covered service. If insurance remittance and an EOB are not received within 120 days of filing of a claim, the DoD will deem the item or service to be a non-covered service. If insurance remittance and an EOB are received after 120 days have elapsed, the DoD will deposit the remittance and adjust the patient's account accordingly. The DoD will issue to the patient a revised medical invoice reflecting updated balances.

(i) *Actions when an insurance payment and/or EOB is received.* When the DoD receives an insurance payment and/or an EOB, the DoD will post all payments and adjustments for those items or services that are deemed as covered by a covered payer against the bill in the manner prescribed by the EOB. The DoD will bill the patient for any remaining copays, co-insurance, deductibles, nominal fees and non-covered services.

(j) *Application for the MHS MPWP (DD Form 3201).* All DoD invoices generated for non-covered beneficiaries will include a statement that all patients applying for the MHS MPWP must

complete DD Form 3201 and must include instructions on how to apply (*i.e.,* the deadline and where to submit the application). Processing of the application will be logged on the last page of the DD Form 3201. Applicants to the MHS MPWP will be notified of the status of their application via the following methods:

(1) For approved applications, the DoD will issue to the patient a modified medical invoice reflecting the adjusted balance due after applying the sliding fee and/or catastrophic fee waiver. The invoice modified to reflect fee adjustments or waiver under the MHS MPWP will include notification of the requirement to transfer delinquent debts to the Department of the Treasury if, after any modification under the MHS MPWP, an unpaid invoice becomes delinquent.

(2) For disapproved applications, the DoD will issue a letter reflecting the reason why the application was disapproved. The letter will inform the patient of their right to reapply should their financial circumstances change.

(k) *Requirements to apply to the MHS MPWP.* (1) To apply to the MHS MPWP all patients must:

(i) Complete a DD Form 2569 (even in cases where the patient possesses no health insurance). Insurance remittances must be applied before the patient can be considered for the MHS MPWP.

(ii) Complete a DD Form 3201, ''Application for Military Health System Modified Payment and Waiver Program.''

(iii) Attach a copy of the patient's (or guarantor's if the patient is a minor) most recently filed Federal Income Tax Return to the DD Form 3201.

(iv) Attach a copy of the patient's (or guarantor's if the patient is a minor) last two pay stubs.

(v) Indicate whether their injury/disease was caused by a third party and provide explanatory information.

(2) Required certifications.

(i) If the patient did not file a Federal Income Tax Return for the preceding year, the patient must certify this on the DD Form 3201.

(ii) If the patient has no verifiable income, the patient must certify this and provide a certification of their current annual income amount on the DD Form 3201.

(iii) If the patient believes that hospitalization/care occurred as the result of an action for which another party may be responsible, then to be eligible for the MHS MPWP, the patient must agree to cooperate and assist the United States to recover the cost of care from said party.

(l) *Basis to assign a Sliding Fee Discount/Catastrophic Fee Waiver*—(1) *MHS Discount Calculator.* Once a year, the ASD(HA) will promulgate an MHS Discount Calculator. The initial calculator will assign a 100 percent sliding fee discount and no stratified nominal fee to applicants to the MHS MPWP whose annual household income is at or below 100 percent of the applicable year's Federal Poverty Guidelines; and a 100 percent sliding fee discount plus a stratified nominal fee to applicants whose annual household income is greater than 100 percent and at or below 400 percent of the Federal Poverty Guidelines current at the time of application. Applicants with annual household income of greater than 400 percent of the applicable year's Federal Poverty Guidelines will not be eligible for a sliding fee discount; but may be eligible for a catastrophic fee waiver.

(2) *Catastrophic Fee Waiver.* For applicants who exceed the 400 percent threshold, the calculator will assign an ASD(HA)-approved maximum percentage that may be charged monthly based on the patient's monthly household income. The maximum percentage will be set to 5 percent. The monthly household income will be multiplied by 5 percent and the result will be multiplied by 36 months to derive the amount of downward adjustment to the patient's bill. Amounts that exceed the recalculated amount will be waived. If the original bill is less than the recalculated bill, the original bill will remain as the balance owed.

(3) *Nominal fee.* Once a year, the ASD(HA) will publish a stratified nominal inpatient and outpatient fee. The nominal fee will be assigned in any case where the sliding fee results in a 100 percent discount of the medical invoice and the patient's income is above 100 percent and up to 400 percent of the applicable year's Federal Poverty Guidelines. Stratified nominal fees are generally established in a manner that is equitable with what military retirees enrolled in the TRICARE program would be required to pay in the private sector for comparable services. The initial nominal stratified fees are as follows:

Household income falls within the below Federal poverty guidelines	Inpatient fee	Outpatient fee
0%–100%	$0	
101%–120%	$750	$50
121%–140%	1,250	50
141%–160%	2,000	50
161%–180%	3,000	50
181%–200%	4,000	50
201%–220%	5,000	50
221% –240%	6,000	50
241%–260%	7,000	50
261%–280%	8,000	50
281%–300%	9,000	50
301%–320%	10,000	50
321%–340%	11,000	50
341%–360%	12,000	50
361%–380%	13,000	50
381%–400%	14,000	50

(m) *Notification of approved/disapproved MHS MPWP applications.* Unless additional time is needed (*e.g.,* to verify a patient's documentation), the DoD shall determine whether a patient has demonstrated eligibility for the MHS MPWP within 30 days of receipt of the complete application. If a decision cannot be made in 30 days, the DoD shall provide the patient with an interim written response. The DoD may suspend DoD collection actions against the patient during the review.

(1) For approved applications, the DoD will issue to the patient a modified

medical invoice reflecting the adjusted balance due after applying the sliding fee and/or catastrophic fee waiver. The invoice modified to reflect fee adjustments or waiver under the MHS MPWP will include notification of the requirement to transfer delinquent debts to the Department of the Treasury if, after any modification under the MHS MPWP, an unpaid invoice becomes delinquent.

(2) For disapproved applications, the DHA will issue a letter by U.S. mail to the patient's last known address reflecting the reason why the application was disapproved. The letter will inform the patient of the right to reapply should the patient's financial circumstances change.

(n) *Collection in installments.* Patients approved for a sliding scale fee reduction or catastrophic fee waiver shall have amounts collected in installments for a term not to exceed 72 months. Patients may choose to pay their balance in a lump sum payment.

(o) *Application for a 10 U.S.C. 1079b(b) waiver.* (1) *Basis for a waiver.* Waivers may be granted when—

(i) The patient has provided the DoD with a completed DD Form 2569 (even for patients who possess no valid health insurance) and applicable insurance payments have been applied;

(ii) The patient has previously submitted a completed application to the MHS MPWP (32 CFR 220.12(k)) and was provided any applicable discounts;

(iii) The patient provided additional information indicating that the MHS MPWP did not sufficiently mitigate severe financial harm; and

(iv) A DoD competent medical authority confirms in writing (on the DD Form 3201) that the care provided to the patient enhanced the KSAs of the DoD healthcare provider.

(v) If the above conditions are met, the Director of DHA may exercise discretionary authority to waive the medical invoice.

(2) *Method to request a waiver.* Patients must submit a completed DD Form 3201–1, ''Request for Medical Debt Waiver Military Health System Modified Payment and Waiver Program.'' All DoD invoices will include the address where a patient may submit a waiver request.

(3) *Response to a request for waiver.* Unless additional time is needed (*e.g.,* to verify a patient's documentation), the DoD shall make a decision on the request within 90 days. The DoD will provide a response in writing to the patient, as well as a copy of the medical invoice reflecting the balance due. Waivers that are approved under 10 U.S.C. 1079b(b) may require reporting to the IRS and issuance of a IRS Form 1099–C.

(p) *Debts transferred to Treasury that are subsequently processed through insurance.* In any instance where a debt is transferred to Treasury and a lower balance is assigned to a Treasury-managed debt due to a claim being subsequently processed through insurance, the DoD shall recall the debt back to the DoD for management actions and notify Treasury to delete the debt from its systems and reverse any adverse reporting that occurred against the debt.

(q) *Delinquent Accounts.* Delinquent accounts will be processed in accordance with the Debt Collection Improvement Act of 1996 and its implementing regulation 31 CFR parts 900–904 (Federal Claims Collection Standards).

(r) *Applications for MHS MPWP Received for Delinquent Accounts Transferred to the Department of the Treasury.* Individuals may still submit an application for the MHS MPWP after their account has been transferred to the Cross-Servicing Program (''Cross-Servicing'') of the Department of the Treasury, Bureau of the Fiscal Service; however, any reductions to the medical invoice from the MPWP may be subject to interest, penalties, and costs. When patients apply to the MHS MPWP after their accounts were transferred to Cross-Servicing, their debts will remain at Cross-Servicing unless and until the DoD determines that they are eligible for a reduction under the MHS MPWP. The DoD may recall the debt from Cross-Servicing after it determines that the debt is eligible for a reduction under the MHS MPWP. Patients may request reconsideration for the MHS MPWP when their financial circumstances appear to have significantly changed.

(s) *Reporting to IRS and Furnishing of IRS Forms 1099–C (Cancellation of Debt).* The DoD will report to IRS, and furnish to patients, IRS Forms 1099–C for all 10 U.S.C. 1079b(b) waivers issued during the previous calendar year where required by 26 U.S.C. 6050P. IRS reporting will not be done for portions of a bill which have been adjusted downwards due to insurance processing, or by assignment of a sliding fee/catastrophic fee waiver to the debt. The IRS Forms 1099–C will reflect amounts waived under the DHA Director's discretionary authority.

(t) *Refunds not permitted for amounts previously paid.* Except for circumstances specified in §§ 220.12(p) and 220.12(u)(3), financial relief under the MHS MPWP may only be granted for amounts still due by the patient; an application for financial relief cannot be used to obtain a refund for any amounts previously paid.

(u) *Claims involving tortfeasors and third-party payers.* No discount or waiver of fees under 10 U.S.C. 1079b shall be interpreted to be applicable to tortfeasors under the FMCRA, 42 U.S.C. 2651, or third-party payers under 10 U.S.C. 1095.

(1) For patients who indicate that their injury/disease was caused by a third party, DoD MTFs will follow procedures established under the Medical Affirmative Claims program.

(2) Patients who have a remaining balance after insurance remittances or recoveries from third-party tortfeasors may apply for relief of any remaining medical debt.

(3) Payments toward the medical debt that were made by the patient prior to settlement of the claim with the tortfeasor will be offset against any balances owed by the patient or may be refunded to the patient if no balance is owed.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AR75

VA Adjudication Regulations for Disability or Death Benefit Claims Based on Toxic Exposure

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations to implement provisions of the Sergeant First Class Heath Robinson Honoring our Promise to Address Comprehensive Toxics Act of 2022 (PACT Act or Act). The statute amended procedures applicable to claims based on toxic exposure and modified or established presumptions of service connection related to toxic exposure. Pursuant to the Act, VA is proposing to remove the manifestation period requirement and the minimum compensable evaluation requirement from Persian Gulf War claims based on undiagnosed illness and medically unexplained chronic multisymptom illnesses. VA is also proposing to expand the definition of a Persian Gulf veteran; update the list of locations eligible for a presumption of exposure to

toxic substances, chemicals, or airborne hazards based on service during the Persian Gulf War; and add presumptions of service connection for 23 diseases associated with exposure to toxins. To implement additional provisions of the Act, VA is also proposing to codify the procedure for determining when medical examinations and nexus opinions are required for claims that cannot be considered on a presumptive basis and the evidence establishes participation in a toxic exposure risk activity (TERA). Additional provisions of the PACT Act will be addressed in separate, future rulemakings.

DATES: Comments must be received on or before December 2, 2024.

ADDRESSES: Comments must be submitted through *www.regulations.gov.* Except as provided below, comments received before the close of the comment period will be available at *www.regulations.gov* for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on *www.regulations.gov* as soon as possible after they have been received. VA will not post on *Regulations.gov* public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered in the final rulemaking. In accordance with the Providing Accountability Through Transparency Act of 2023, a plain language summary (not more than 100 words in length) of this proposed rule is available at *www.regulations.gov,* under RIN 2900–AR75.

FOR FURTHER INFORMATION CONTACT: Sara Cohen, Lead Analyst, Regulations Staff (211C); Robert Parks, Chief, Regulations Staff (211C), Compensation Service (21C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–9700. (This is not a toll-free telephone number.)

SUPPLEMENTARY INFORMATION:

I. Background and Statutory Authority

The PACT Act expanded eligibility for health care and disability compensation benefits for veterans who were exposed to toxic substances during military service. The law established a presumption that veterans were exposed to certain substances, chemicals, and airborne hazards if they served in various specified locations during certain time frames. The law created a statutory framework for VA to provide medical examinations in order to obtain nexus opinions when a veteran submits a claim for compensation for a non-presumptive condition with evidence of a disability and evidence of participation in a toxic exposure risk activity (TERA) in service. The law also expanded the definition of ''Persian Gulf veteran'' under 38 U.S.C. 1117 to include six new locations, allowing veterans with service in those locations during the relevant time period to qualify for presumptions of service connection based on disability due to undiagnosed illness and medically unexplained chronic multisymptom illnesses (MUCMI). The PACT Act also created new 38 U.S.C. 1119, Presumptions of toxic exposure, which established a presumption of specific toxic exposures for certain covered veterans. The Act also created new 38 U.S.C. 1120, which established presumptions of service connection for 23 diseases that are associated with exposure to burn pits and other toxins. Although that section originally contained 24 diseases, lymphomatic cancer of any type was later removed as a technical amendment by Public Law 117–623, as the term ''lymphomatic cancer'' is not recognized by the medical and scientific community. However, lymphoma cancer of any type remains a covered disease presumptive to exposure to burn pits and other toxins under 38 U.S.C. 1120. The presumption of service connection under 38 U.S.C. 1120 applies to ''covered veterans'' under 38 U.S.C. 1119.

II. Proposed Changes to § 3.1 Definitions

VA is proposing to implement several portions of the PACT Act by adding new definitions to 38 CFR 3.1. VA is proposing to add the statutory definition of ''toxic exposure risk activity'' to 38 CFR 3.1, in new paragraph (bb). Section 303 of the PACT Act established 38 U.S.C. 1168, which governs medical nexus examinations based on TERA. 38 U.S.C. 1168(a) provides that if a veteran submits a claim for service-connected compensation with evidence of a disability and evidence of participation in a TERA during active military, naval, air, or space service, and such evidence is not sufficient to establish service connection for the disability, VA will provide the veteran with a medical examination and obtain a medical nexus opinion as to whether it is at least as likely as not that there is a nexus between the disability and the TERA. 38 U.S.C. 1168(c) states that ''the term ''toxic exposure risk activity'' has the meaning given that term in section 1710(e)(4) of this title.'' 38 U.S.C. 1710(e)(4) defines a ''toxic exposure risk activity'' as ''any activity that requires a corresponding entry in an exposure tracking record system (as defined in section 1119(c) of this title) for the veteran who carried out the activity; or that the Secretary determines qualifies for purposes of this subsection when taking into account what is reasonably prudent to protect the health of veterans.''

VA has determined that if a veteran's military service qualifies for a presumption of exposure, VA must concede participation in a TERA. Locations with a presumption of exposure include any recognized radiation risk activity locations (38 U.S.C. 1112 and 38 CFR 3.309(d)(3)(ii)); locations associated with herbicide exposure (38 U.S.C. 1116); the Persian Gulf (38 U.S.C. 1117); locations associated with exposure to burn pits (38 U.S.C. 1119); and at Camp LeJeune (38 CFR 3.307(a)(7)). If a veteran served in a location that qualifies for a presumption of exposure and submits a claim for a non-presumptive condition with evidence of a disability, a disability examination and medical opinion based on TERA must be requested, unless an exception under 38 U.S.C. 1168(b), as described below in section III, applies.

As required by the PACT Act, if an entry in an exposure tracking record system reflects an activity carried out by the veteran while on active duty, then the veteran will be considered to have participated in a TERA (38 U.S.C. 1710(e)(4)(C)). VA generally proposes to recognize participation in a TERA based on any entry in an exposure tracking record system (*e.g.,* the Individual Longitudinal Exposure Record (ILER)). However, there are circumstances where an ILER entry may show only a claimant's name and contain no deployment information nor show any potential toxic exposure. For an entry in an exposure tracking record system to constitute participation in a TERA, based on the statutory definition of such term (38 U.S.C. 1710(e)(4)(C)), the entry must correspond to an activity performed by the veteran. Because name-only entries do not contain any evidence of an activity performed by the veteran, VA proposes that these entries will not constitute participation in a

TERA, as name-only entries do not fall under the statutory definition of TERA.

VA also proposes that records in an exposure tracking record system from contractor or civilian service periods should not be accepted as participation in a TERA. For example, ILER records contain different component categories. These components include mixed deployment histories to include periods of Active Duty, Reserves, National Guard, civilian time, and contractor work. An examination and TERA medical opinion are required under 38 U.S.C. 1168(a) when there is evidence of a disability and evidence of participation in a TERA during active military, naval, air, or space service. Because contractor or civilian service periods are not considered active military service, deployments as a civilian or contractor listed in an exposure tracking record system should not be used to concede participation in a TERA for the purpose of triggering the examination requirements under 38 U.S.C. 1168(a).

VA also proposes to amend 38 CFR 3.1 by adding new paragraph (cc) defining the term ''exposure tracking record system.'' The term would be defined as in section 302 of the PACT Act, to mean any system, program, or pilot program used by the Secretary of Veterans Affairs or the Secretary of Defense to track how veterans or members of the Armed Forces have been exposed to various occupational or environmental hazards, including ILER, or successor system.

ILER is a joint Department of Defense (DoD) and VA web-based application that provides the ability to link a veteran to military exposures and/or deployments to improve the efficiency, effectiveness, and quality of health care, epidemiology, health effects research, and adjudication of benefits associated with exposures. The exposure data in ILER currently integrates information from multiple sources, including, but not limited to, the Defense Occupational and Environmental Health Readiness System—Industrial Hygiene (DOEHRS–IH), Armed Forces Health Surveillance Branch (AFHSB), Defense Manpower Data Center (DMDC), and Military Health System (MHS) Data Repository. ILER currently provides access to over six million unique veteran records and acts as a single access point to deployment history; including time, location, military and non-military deployment data, military occupational specialty (MOS), occupational hazard data, environmental hazards known or later found, monitoring performance in the area(s), diagnosis, treatment, and laboratory data. ILER has the capability of enabling a search by individual, location, exposure type, and health effect.

DOEHRS is the biggest source of information for ILER. DOEHRS contains information resulting from routine investigations for occupational and other health standards (similar to investigations for compliance with the Occupational Safety and Health Act, the Safe Drinking Water Act, or other investigations that may be conducted by the Environmental Protection Agency). Data stored in DOEHRS contains area sampling information and analysis for potentially hazardous conditions; specifically, this information includes analysis of recorded data. The surveillance data is linked by ILER through the DMDC to the names of individuals present at the time of the area sampling so that if an unsafe environment is identified, the correct service members can be identified for monitoring or treatment. Records identifying entries or exposures that exceeded permissible limits or are of concern, which may either be generally applicable occupational exposure limits or DoD-specific limits, are displayed in red. While TERA does not require exposures over any specific thresholds, evidence of exposures over permissible limits or are of concern are provided to the VA medical examiner to inform their medical opinion. All exposure information is recorded in DOEHRS (and available through ILER) and includes routine surveillance with normal environmental exposure as well as exposures that may have exceeded permissible limits. Sampling data is collected both from domestic sources as well as from forward operating bases.

Finally, VA also proposes to amend 38 CFR 3.1 by adding a definition of ''physical trauma'' in new paragraph (dd). This amendment is necessary to implement proposed changes to 38 CFR 3.159 and is discussed below in section III.

III. Proposed Changes to § 3.159 Department of Veterans Affairs Assistance in Developing Claims

VA proposes to amend 38 CFR 3.159 to implement the new medical nexus examination and exception authority created in 38 U.S.C. 1168 by section 303 of the PACT Act. Based on 38 U.S.C. 1168, if a veteran submits a claim for a disability that cannot be considered on a presumptive basis and evidence establishes that the veteran participated in a TERA, and the evidence of record is not sufficient to establish service connection for the disability, VA will obtain a medical examination and medical nexus opinion to determine if the veteran's claimed disability is at least as likely as not due to the veteran's TERA. Likewise, if a veteran submits a claim for a disability that is subject to a presumption of service connection, but the veteran did not have qualifying service in a location where VA has conceded toxic exposure, and evidence establishes that the veteran participated in a TERA, a medical examination and medical nexus opinion would be required if service connection could not otherwise be established. Additionally, VA would not obtain a medical examination and medical nexus opinion if the evidence did not establish that the veteran participated in a TERA because doing so would require the examiners to provide opinions based on speculation.

To implement the new medical nexus examination and exception authority created in 38 U.S.C. 1168 by section 303 of the PACT Act, VA is proposing to amend § 3.159(c)(4) by renumbering current paragraphs (c)(4)(iii) and (iv) as (c)(4)(v) and (vi), respectively. Additionally, VA proposes to amend the language in paragraph (c)(4)(i) by clarifying that the requirements apply except as provided in paragraph (c)(4)(iv). VA also proposes to include new paragraph (c)(4)(iii), which would outline when a medical examination and medical opinion must be provided for claims where the evidence establishes participation in a TERA.

Section 1168(b) of title 38 of the U.S.C. provides an exception to when medical examinations and nexus opinions are required for claims where there is evidence of participation in a TERA and the claim cannot be considered on a presumptive basis. The exception states that an examination is not required if the Secretary determines that there is no indication of an association between the claimed disability and the TERA. This exception provides VA with the authority to define when a medical examination and nexus opinion must be provided for claims where the evidence establishes participation in a TERA and will be utilized to minimize meritless examination requests. However, in all cases where the veteran submits competent medical or scientific evidence that indicates a possible association between their claimed disability and TERA, VA will provide an examination and medical nexus opinion.

The determination that there is no indication of an association between a disability and a TERA on a categorical basis will necessarily involve factors specific and unique to the disabilities and TERAs involved. And so, in interpreting the language of 38 U.S.C.

1168(b), VA is not proposing a single standard that would govern all such determinations going forward. However, at this time VA has determined that there is no indication of an association between the following disabilities and TERAs and is proposing to apply the exception at 38 U.S.C. 1168(b) in the following circumstances. As noted below, VA has also requested comment on whether there are any additional examination exceptions pursuant to section 1168(b), beyond those proposed below, that the agency should consider implementing.

First, VA proposes to apply the exception when a veteran submits a claim for service connection for a disability that resulted from physical trauma. VA would not automatically order a medical examination or medical nexus opinion if the veteran claims service connection for a disability that resulted from physical trauma unless the veteran submits competent medical or scientific evidence that indicates that the claimed disability may be associated with the in-service TERA. VA has determined that there is no indication of an association between disabilities due to physical trauma and TERAs because the etiology of these conditions is the physical trauma itself.

VA proposes to define physical trauma as ''a serious injury to the body.'' [1] VA notes that in this definition, VA intends the body to include the head and all members of the person. *See* Black's Law Dictionary 6th Ed. (1991) (defining body). The definition of physical trauma will include three main types: blunt force trauma, trauma due to repetitive use, and penetrating trauma.

VA proposes to define blunt force trauma to mean ''when an object or force strikes the body, often causing concussions, deep cuts, or broken bones.'' [2] Trauma due to repetitive use will be defined as occurring ''when repeated stress to the body's soft tissue structures, including muscles, tendons, and nerves, results in repetitive strain injuries.'' [3] Penetrating trauma will be defined to mean ''when an object pierces the skin or body, usually creating an open wound.'' [4] Penetrating trauma with embedded fragments will not fall under this exception. An embedded fragment is a piece of metal or other material (also referred to as shrapnel) that stays in the body after injury and can potentially lead to toxic exposure.[5] Therefore, if a veteran submits a claim for service connection for a disability due to embedded fragments and there is evidence of participation in a TERA, a medical examination and medical nexus opinion will be required.

To aid claims processors in identifying claims for conditions that fall under the physical trauma exception, VA proposes to publish and maintain a non-exhaustive list of conditions that may fall under the exception on the VA PACT Act website. However, VA notes that the list would not be binding on claims processors, who would still be required to make case-by-case determinations of whether a disability resulted from physical trauma based on the facts of the case. The VA ''The PACT Act and your VA benefits'' website is the primary site for all healthcare and benefits-related information on the PACT Act and provides the public with detailed information regarding these topics. Publishing the list on VA's PACT Act website provides VA the flexibility to update the list by the most efficient means based on the continually evolving science on health outcomes due to toxic exposure. This approach allows VA to provide updates to veterans and stakeholders in a timely manner. Although the specific website has not been created yet and so a link cannot be provided at this time, VA proposes to include a link to the VA PACT Act website in 38 CFR 3.159(c)(4)(iv) and would do so in the final rule. The VA PACT Act website can be found at: *https://www.va.gov/resources/the-pact-act-and-your-va-benefits/.* In addition, VA will provide notice in the **Federal Register** whenever updates are made to the non-exhaustive list of physical trauma exceptions.

VA is also proposing to apply the exception at 38 U.S.C. 1168(b) to any claim for service connection of a mental disorder under 38 CFR 4.130, Schedule of Ratings—Mental Disorders. VA would not automatically order a medical examination or medical nexus opinion if the veteran claims service connection for a mental disorder unless the veteran submits competent medical or scientific evidence that indicates there may be an association between their disability and the in-service TERA. VA has determined that there is no indication of an association between mental disorders and toxic exposures because currently available medical and scientific literature has not identified an association between mental disorders and toxic exposure.

The National Academies of Science, Engineering, and Medicine (NASEM) has been studying the health effects of serving in the Gulf War since 1993 and has published 13 reports in their Gulf War and Health series.[6] Over the last 25 years, NASEM has not found an association between toxic exposures during the Gulf War and mental disorders. In Gulf War and Health, Volume 10 (2016), NASEM was tasked with reviewing and evaluating the literature on health outcomes with higher incidence rates in Gulf War deployed veterans, including post-deployment mental disorders. NASEM determined that there was sufficient evidence of association between deployment to the Gulf War and several mental disorders, including posttraumatic stress disorder, generalized anxiety disorders, depression, and substance use disorder. However, this association was found to be due to combat exposure, and not associated with exposure to toxins.[7]

Although this decision is predicated on the currently available scientific evidence, section 507 of the PACT Act requires VA to partner with NASEM ''to assess possible relationships between toxic exposures experienced during service in the Armed Forces and mental health conditions, including chronic multisymptom illness, traumatic brain injury, posttraumatic stress disorder, depression, episodes of psychosis, schizophrenia, bipolar disorder, suicide attempts, and suicide deaths.'' The Act requires VA to submit a report detailing NASEM's findings not later than three years from the date of enactment of the Act. Depending on the results of this study, VA may revise its exceptions under 38 U.S.C. 1168(b).

VA is also proposing to apply the exception under 38 U.S.C. 1168(b) to claims for certain conditions that the VA Secretary has determined have no association with herbicide exposure when the only participation in a TERA

[1] National Institute of General Medical Sciences. Physical Trauma. Accessed at *https://www.nigms.nih.gov/education/fact-sheets/Pages/physical-trauma.aspx* on November 18, 2022.

[2] *Ibid.*

[3] O'Neil BA, Forsythe ME, Stanish WD. Chronic occupational repetitive strain injury. Can Fam Physician. 2001 Feb;47:311–6. PMID: 11228032; PMCID: PMC2016244.

[4] National Institute of General Medical Sciences. Physical Trauma. Accessed at *https://www.nigms.nih.gov/education/fact-sheets/Pages/physical-trauma.aspx* on November 18, 2022.

[5] Department of Veterans Affairs. Toxic Embedded Fragment Surveillance Center Information For Veterans. 2014. Accessed at *https://www.publichealth.va.gov/docs/exposures/TEFSC-veterans-fact-sheet.pdf* on October 11, 2022.

[6] VA Public Health. Gulf War Health and Medicine Division Reports. Accessed at *https://www.publichealth.va.gov/exposures/gulfwar/reports/health-and-medicine-division.asp* on October 25, 2022.

[7] National Academies of Sciences, Engineering, and Medicine. 2016. Gulf War and Health: Volume 10: Update of Health Effects of Serving in the Gulf War, 2016. Washington, DC: The National Academies Press. *https://doi.org/10.17226/21840.*

that is established relates to herbicide exposure. The Agent Orange Act of 1991, Public Law 102–4, provided that whenever the Secretary determined, based on sound medical and scientific evidence, that a positive association exists between exposure to an herbicide agent and a disease, the Secretary would publish regulations establishing presumptive service connection for that disease. If the Secretary determined that a presumption of service connection was not warranted, VA was required to publish a notice of that determination, including an explanation of the scientific basis for that determination.

Since 1994, NASEM has published 11 biennial reports in their Veterans and Agent Orange series, as required by the Agent Orange Act.[8] VA has published nine notices [9] explaining that presumptions of service connection are not warranted for a number of diseases addressed in NASEM's reports, due to the Secretary's determination that there is not a positive association between herbicide exposure and the diseases evaluated. VA has determined that there is no indication of an association between these certain conditions and herbicide exposure. Thus, VA is proposing to exclude these conditions from warranting a medical examination and medical opinion under 38 U.S.C. 1168(b) when the only relevant TERA is herbicide exposure. And therefore, VA would not automatically order a medical examination or medical nexus opinion if a veteran claims service connection for an excluded condition when the only participation in a TERA that is established relates to herbicide exposure, unless the veteran submits with, or during the course of the claim, competent medical or scientific evidence [10] that indicates there may be an association between their disability and herbicide exposure. This exception would not apply to claims for the excluded conditions if participation in a TERA other than herbicide exposure was established.

VA has reviewed the list of conditions that the Secretary determined did not warrant establishment of presumptive service connection, published in the most recent **Federal Register** notice (79 FR 20308), but has made several changes for purposes of the exception under 38 U.S.C. 1168(b). Conditions that are not considered disabilities for VA rating purposes, such as laboratory findings, have been removed. Conditions that have been determined to be presumptive to herbicide exposure and added to 38 U.S.C. 1112(c) since publication of the **Federal Register** notice have been removed. In addition, VA reviewed currently available scientific evidence regarding any associations with the conditions on the list and herbicide exposure. VA finds there is sufficient scientific evidence warranting removal of renal cancer from the previously published TERA exceptions list.[11] VA's review of currently available scientific evidence did not identify sufficient evidence of an association between the remaining conditions on the list and herbicide exposure. Several conditions were listed using vague and non-specific medical terminology, such as ''eye problems'' and ''bone conditions.'' ''Eye problems'' has been changed to ''diseases of the eye.'' ''Bone conditions'' has been changed to ''osteoporosis'' because osteoporosis was the only bone condition considered in the most recent Veterans and Agent Orange report.

The list of conditions published in the **Federal Register** and recognized as not warranting a presumption of service connection based on herbicide exposure also included ''cancers at other unspecified sites (other than those as to which the Secretary has already established a presumption.)'' VA determined that excluding all other cancers for which there is not an established presumption was too broad and may result in a veteran being denied a VA examination in error. This determination is based on the fact that toxic exposure research has advanced dramatically since the initial list was published in the **Federal Register**, and VA cannot conclusively say that there is no indication of an association between herbicide exposure and *all* other cancers not already established by presumption.

Pursuant to the exception at 38 U.S.C. 1168(b), VA proposes to exclude the following conditions when the only participation in a TERA that is established relates to herbicide exposure: (1) Cancers of the oral cavity (including lips and tongue), pharynx (including tonsils), and nasal cavity (including ears and sinuses); (2) cancers of the pleura, mediastinum, and other unspecified sites within the respiratory system and intrathoracic organs; (3) cancers of the digestive organs (esophageal cancer; stomach cancer; colorectal cancer (including small intestine and anus), hepatobiliary cancers (liver, gallbladder, and bile ducts), and pancreatic cancer); (4) bone and connective tissue cancer; (5) melanoma; (6) nonmelanoma skin cancer (basal cell and squamous cell); (7) cancers of the reproductive organs (cervix, uterus, ovary, breast, testes, and penis; not including prostate); (8) cancers of the brain and nervous system (including eye); (9) endocrine cancers (including thyroid and thymus); (10) leukemia (other than all chronic B-cell leukemias including chronic lymphocytic leukemia and hairy cell leukemia); (11) neurobehavioral disorders (cognitive and neuropsychiatric); (12) neurodegenerative diseases (including amyotrophic lateral sclerosis (ALS) but not including Parkinson's disease and Parkinsonism); (13) chronic peripheral nervous system disorders (other than early-onset peripheral neuropathy); (14) asthma; (15) chronic obstructive pulmonary disease; (16) farmer's lung; (17) gastrointestinal, metabolic, and digestive disorders; (18) immune system disorders (immune suppression, allergy, and autoimmunity); (19) circulatory disorders (other than hypertension, ischemic heart disease, and stroke); (20) endometriosis; (21) hearing loss; (22) diseases of the eye; and (23) osteoporosis.

VA proposes to apply the exception under 38 U.S.C. 1168(b) to claims for disabilities that manifested during military service or with an etiology not associated with toxic exposure. This exception will apply to conditions that manifested during service for which a medical nexus opinion would not be needed to decide service connection on

[8] VA Public Health. Health and Medicine Division Reports on Agent Orange. Accessed at *https://www.publichealth.va.gov/exposures/agentorange/publications/health-and-medicine-division.asp* on October 25, 2022.

[9] 59 FR 341, published January 4, 1994, Disease Not Associated With Exposure to Certain Herbicide Agents; 61 FR 41442, published August 8, 1996, Disease Not Associated With Exposure to Certain Herbicide Agents. August 8, 1996; 64 FR 59232, published November 2, 1999, Diseases Not Associated With Exposure to Certain Herbicide Agents; 67 FR 45600, published June 24, 2002, Diseases Not Associated With Exposure to Certain Herbicide Agents; 68 FR 27630, published May 20, 2003, Diseases Not Associated With Exposure to Certain Herbicide Agents; 75 FR 32540 published June 8, 2010, Health Effects Not Associated With Exposure to Certain Herbicide Agents; 75 FR 81332, published December 27, 2010, Determinations Concerning Illnesses Discussed in National Academy of Sciences Report: Veterans and Agent Orange: Update 2010;77 FR 47924, published August 10, 2012, Determinations Concerning Illnesses Discussed in National Academy of Sciences Report: Veterans and Agent Orange: Update 2010; 79 FR 20308, published April 11, 2014, Determinations Concerning Illnesses Discussed in National Academy of Sciences Report: Veterans and Agent Orange: Update 2012.

[10] Competent medical or scientific evidence is typically provided by one who is qualified to provide such evidence, due to training, education, or experience in that particular field. *See Parks* v. *Shinseki,* 716 F.3d 581,585 (2013).

[11] Andreotti, G., Beane Freeman, L.E., Shearer, J.J., Lerro, C.C., Koutros, S., Parks, C.G., Blair, A., Lynch, C.F., Lubin, J.H., Sandler, D.P., & Hofmann, J.N. (2020). Occupational Pesticide Use and Risk of Renal Cell Carcinoma in the Agricultural Health Study. *Environmental health perspectives, 128*(6), 67011. *https://doi.org/10.1289/EHP6334.*

a direct basis (evidence of chronicity or continuity is of record) and to claims where the evidence of record indicates that the claimed condition has an etiology that is not associated with toxic exposure (to include post-service event).

VA also proposes to apply the exception under 38 U.S.C. 1168(b) to claims where the only established participation in a TERA is based on an entry in an exposure tracking record system that does not correspond to an activity performed by the veteran that could result in potential in-service exposure to toxic substances, chemicals, or airborne hazards. Claims processors should apply a liberal standard to determine participation in a TERA. VA generally proposes to recognize participation in a TERA based on any entry in ILER, except for contractor and civilian service records and where only the veteran's name appears. However, there are circumstances where an entry in the ILER database may show, for example, only a post-military service health record or physical injuries. Such entries do not show the veteran was in proximity to, or in the environment of, toxic substances, chemicals, and/or airborne hazards, and so such entries cannot corroborate potential exposure to toxic substances, chemicals, or airborne hazards. Such entries would be sufficient to establish participation in a TERA, but where the relevant entry provides no indication of a potential toxic exposure during military service, VA has determined that there would be no indication of an association between the claimed disability and such entry. In such scenarios, VA proposes that it will not provide an examination and opinion, pursuant to the exception in section 1168(b).

VA further proposes that in order to corroborate a potential exposure to toxic substances, chemicals, and/or airborne hazards, the entries in an exposure tracking record system that establish the veteran's participation in a TERA must show that the veteran was in proximity to, or in an environment which contained, toxic substances, chemicals, and/or airborne hazards. The proximity should not be considered in terms of actual distance, but whether the conditions, circumstances, and hardships of service placed the claimant in a potentially toxic environment. Examples of service in proximity to, or in an environment which contained, a toxic substance, chemical, or airborne hazard include, but are not limited to, service in the following locations: Congressionally recognized radiation risk locations (38 U.S.C. 1112, 1154); locations associated with herbicide exposure (38 U.S.C. 1116); the Persian Gulf (38 U.S.C. 1117; Pub. L 111–275, section (d)); locations associated with exposure to burn pits (38 U.S.C. 1120); at Camp Lejeune (38 CFR 3.307(a)(7); and any locations determined by the Secretary pursuant to 38 U.S.C. 1119 (c)(1)(B)(ix). Claims processors should also recognize veterans may participate in a TERA based on their proximity to environmental hazards such as asbestos, benzene, PFAS, or other accepted environmental substances that pose risk to human health, regardless of location or service era. For example, between 2001 and 2005, the U.S. occupied an old Soviet-era airbase, Karshi-Khanabad (K2) in Uzbekistan, near Tajikistan.[12] The veterans who served at K2 were exposed to jet fuel as a result of a leaking Soviet era underground jet fuel distribution system; [13] volatile organic compounds found in air samples; [14] particulate matter and dust; [15] depleted uranium from non-U.S. ammunition destroyed in fires; [16] asbestos roofing tiles and lead based paint; [17] and lead in water samples,[18] which VA would consider TERAs for this population. VA invites public comment on what should be considered toxic exposure risk activity, and how VA should determine whether a veteran participated in the same.

VA also proposes to apply the exception under section 1168(b) where the only participation in a TERA that is established is based on entries in an exposure tracking record system that are self-reported records that cannot be substantiated. That is, the self-reported records are inconsistent with the information available and circumstances of the veteran's service or provide insufficient information to permit reasonable verification. For example, if the only participation in a TERA that is established is based on a veteran's statement in a post-service health assessment or an Agent Orange examination registry that they believe an herbicide exposure occurred, the record must corroborate that the veteran served in proximity to, or in an environment in which, an herbicide was present.

VA proposes that an unsubstantiated report is one VA cannot prove or otherwise accept to be true. (See unsubstantiated definition ''not proven to be true''. *https://www.merriam-webster.com/dictionary/unsubstantiated,* reviewed January 11, 2024.) Unsubstantiated would also be considered unsupported by any facts or evidence, unfounded by the evidence, or lacking in foundation. This also includes circumstances where the report in an exposure tracking record system, such as in an Agent Orange registry exam in ILER, is inconsistent with the circumstances of service based on the totality of the claimant's record. Such scenarios could include, for example, inaccurate information about a veteran's military occupational specialty or reporting service in an unverifiable location.

VA has determined that there is no indication of an association between participation in a TERA that is based on an entry in an exposure tracking record system that is based on uncorroborated assertions of exposure or unsubstantiated reports and disabilities. VA notes that it would not be possible for an examiner to provide a medical opinion on the relationship between a disability and participation in a TERA that cannot be corroborated or substantiated, as doing so would require speculation on the examiner's part. Although a veteran's own statements may have evidentiary value in VA adjudications, in instances where self-reported records are inconsistent with the information available and circumstances of the veteran's service, or provide insufficient information to permit reasonable verification, such records do not reasonably provide any

[12] ''Military Deployment Periodic Occupational and Environmental Monitoring Summary (POEMS): Karshi-Khanabad Airbase, Uzbekistan: 2001 to 2005,'' Department of Defense, *https://ph.health.mil/PHC%20Resource%20Library/U_UZB_Karshi-Khanabad%20POEMS%202001-2005_Public%20Release%20Review.pdf.*

[13] ''Environmental Conditions at Karshi-Khanabad (K–2) Air Base Uzbekistan,'' Army Public Health Center, *https://ph.health.mil/PHC%20Resource%20Library/EnvironmentalConditionsatK-2AirBaseUzbekistan_FS_64-038-0617.pdf* ; ''Transmittal of Deployment Occupational and Environmental Health Site Assessment, Karshi-Khanabad Airbase, Karshi, Uzbekistan,'' Department of the Army, *https://ph.health.mil/PHC%20Resource%20Library/ehse-k2-08-doeh-assessment.pdf;* ''Final Report, Environmental Assessment—Hardened Aircraft Shelters, Stronghold Freedom, Karshi Khanabad Airfield, Uzbekistan, 6 June—20 July 2002,'' *https://ph.health.mil/PHC%20Resource%20Library/ehse-k2-05-enviro-assessment-aircraft-shelters.pdf.*

[14] ''Transmittal of Deployment Occupational and Environmental Health Site Assessment, Karshi-Khanabad Airbase, Karshi, Uzbekistan,'' Department of the Army.

[15] ''Environmental Conditions at Karshi-Khanabad (K–2) Air Base Uzbekistan,'' Army Public Health Center.

[16] ''Transmittal of Deployment Occupational and Environmental Health Site Assessment, Karshi-Khanabad Airbase, Karshi, Uzbekistan,'' Department of the Army.

[17] ''Transmittal of Deployment Occupational and Environmental Health Site Assessment, Karshi-Khanabad Airbase, Karshi, Uzbekistan,'' Department of the Army.

[18] ''Transmittal of Deployment Occupational and Environmental Health Site Assessment, Karshi-Khanabad Airbase, Karshi, Uzbekistan,'' Department of the Army.

indication of an association between a claimed disability and toxic exposure risk activity.

The exceptions to the medical examination and medical opinion requirements under 38 U.S.C. 1168(b) will be applied on a case-by-case basis and require individualized determinations. In all cases, where there is reasonable doubt as to whether the exception applies, such doubt will be resolved in favor of the veteran, and a medical examination and medical opinion will be provided (38 CFR 3.102).

As noted, VA also invites public comment on whether additional exceptions under 1168(b) are warranted. For example, the agency invites comment on the appropriateness of an exception that would apply if a veteran has not affirmatively indicated the presence of a TERA.

VA proposes to list all medical examination and nexus opinion exceptions for claims based on TERA under 38 CFR 3.159(c)(4)(iv).

In the interest of implementing the PACT Act as soon as possible following enactment of the law, VA published Notification of Sub-regulatory Guidance in the **Federal Register** on December 22, 2022 (87 FR 78543). The notification includes as an attachment VBA Letter 20–22–10, which provides sub-regulatory guidance for claims processors adjudicating disability compensation claims and appeals for veterans and survivors impacted by the PACT Act prior to implementation of the Act in regulation. Regarding section 303 of the PACT Act, the policy letter outlines the procedures for determining when participation in a TERA will be conceded. The Policy Letter can be found as an attachment to the notification and can be viewed and downloaded at *Regulations.gov*.

IV. Proposed Changes to § 3.317 Compensation for Certain Disabilities Occurring in Persian Gulf Veterans

Section 3.317(a) governs presumptive service connection for certain qualifying chronic disabilities based on service in the Southwest Asia theater of operations during the Gulf War. The controlling statute, 38 U.S.C. 1117, was established in 1994, in response to large numbers of Gulf War veterans returning from the Southwest Asia theater of operations with unexplained symptoms of fatigue, skin rash, muscle and joint pain, headache, loss of memory, shortness of breath, and gastrointestinal and respiratory symptoms, which could not be diagnosed or clearly defined. Congress recognized that veterans who deployed during the Gulf War were exposed to toxic substances, chemicals, and airborne hazards. However, at the time, there was a lack of scientific evidence linking toxic exposure during Gulf War service to undiagnosed illnesses and MUCMIs. Congress also recognized that VA did not have the authority to provide compensation for these claims because the claimed conditions could not be attributed to a known diagnosis (Pub. L. 103–446, title I, sec. 102).

In response to these issues, Congress enacted the Veterans' Benefits Improvements Act of 1994, Public Law 103–446. The law added 38 U.S.C. 1117, authorizing the Secretary of Veterans Affairs to compensate any Persian Gulf veteran suffering from a chronic disability resulting from an undiagnosed illness or MUCMI that became manifest either during active duty in the Southwest Asia theater of operations during the Persian Gulf War or to a degree of 10 percent or more within a presumptive period, as determined by the Secretary, following service in the Southwest Asia theater of operations during the Persian Gulf War.

Implementing that statute, 38 CFR 3.317 prohibits compensation for disabilities that, through medical history, physical examination, and laboratory tests, are determined to result from any known clinical diagnosis. Disabilities resulting from a known clinical diagnosis receive consideration for service connection under other regulations governing direct service connection or aggravation (38 CFR 3.303, 3.306, 3.310).

Section 405 of the PACT Act amended 38 U.S.C. 1117, Compensation for disabilities occurring in Persian Gulf War veterans, by removing the manifestation requirements for claims based on undiagnosed illnesses and MUCMIs and instead allows compensation to be paid for qualifying chronic disabilities that become manifest to any degree at any time. Section 405 also amended the definition of a Persian Gulf veteran contained in 38 U.S.C. 1117(f) to include veterans with service in six additional locations: Afghanistan, Israel, Egypt, Turkey, Syria, and Jordan.

Therefore, VA is proposing to amend 38 CFR 3.317(a)(1) to remove the requirement that an undiagnosed illness or MUCMI must manifest either during active military, naval, or air service in the Southwest Asia theater of operations, or to a degree of 10 percent or more not later than December 31, 2026. VA proposes to amend 38 CFR 3.317(a)(1) to state that a qualifying chronic disability under this section may manifest to any degree at any time, provided that such disability, by history, physical examination, and laboratory tests, cannot be attributed to any known clinical diagnosis.

Based on section 405 of the PACT Act, VA also proposes to amend 38 CFR 3.317(e)(1) to update the definition of a Persian Gulf veteran. Currently, 38 CFR 3.317(e)(1) defines a Persian Gulf veteran as ''a veteran who served on active military, naval, or air service in the Southwest Asia theater of operations during the Persian Gulf War.'' The PACT Act amended 38 U.S.C. 1117(f) to define a Persian Gulf veteran as ''a veteran who served on active duty in the Armed Forces in the Southwest Asia theater of operations, Afghanistan, Israel, Egypt, Turkey, Syria, or Jordan, during the Persian Gulf War.'' Therefore, VA proposes to add these six new locations to the definition of a Persian Gulf veteran under 38 CFR 3.317(e)(1).

VA recently announced its plans to take steps to consider Veterans who served in Uzbekistan as Persian Gulf Veterans, therefore making undiagnosed illness and medically unexplained chronic multi-symptom illness (also known as Gulf War Illness) presumptive conditions for those Veterans. VA invites public comment on that issue, as well as whether VA should also add Somalia, Djibouti, Lebanon, and Yemen as covered locations in the definition of a Persian Gulf veteran under 38 CFR 3.317(e)(1) based on exposure in these locations to toxic substances similar to those that were present in currently covered locations, such as fine particulate matter ($PM_{2.5}$).

Further, because 38 CFR 3.317(c)(3)(ii) defines the qualifying service for infectious diseases in terms of § 3.317(e), it is necessary to amend paragraph (c)(3)(ii) to correctly limit the scope of its application to the Southwest Asia theater of operations during the Gulf War period as well as on or after September 19, 2001, in Afghanistan. VA acknowledges that there is overlap in 38 CFR 3.317 with regard to locations currently covered for undiagnosed illnesses, MUCMIs and infectious diseases. VA seeks comment as to whether the following countries should be considered for inclusion under infectious diseases in 38 CFR 3.317(c): Djibouti, Lebanon, Somalia, Uzbekistan, Yemen, Israel, Egypt, Turkey, Syria or Jordan. VA is proposing amendments to the manifestation requirements and the definition of a Persian Gulf veteran under § 3.317 described above to implement the statutory changes imposed by the PACT Act.

V. Proposed Changes to § 3.320 Claims Based on Exposure to Fine Particulate Matter

VA proposes to amend 38 CFR 3.320 to implement portions of sections 302 and 406 of the PACT Act. VA promulgated 38 CFR 3.320 to establish presumptions of service connection for certain chronic diseases based on presumed exposure to fine particulate matter ($PM_{2.5}$) during service in the Southwest Asia theater of operations during the Persian Gulf War, and service in Afghanistan, Syria, Djibouti, or Uzbekistan, on or after September 19, 2001, during the Persian Gulf War. These presumptions were based on VA's review and analysis of several reports that focused on airborne hazards in the Southwest Asia theater of operations during the Persian Gulf War. The primary reports that informed VA's decision were NASEM's 2020 report, Respiratory Health Effects of Airborne Hazards Exposures in the Southwest Asia Theater of Military Operations,[19] and NASEM's 2011 report, Long-Term Consequences of Exposure to Burn Pits in Iraq and Afghanistan.[20] VA's decision was also informed by NASEM's 2010 report, Review of the Department of Defense Enhanced Particulate Matter Surveillance Program, which noted the difficulties associated with conducting exposure assessments in deployment environments. However, the report concluded that service members deployed to the Middle East ''are exposed to high concentrations of PM and that the particle composition varies considerably over time and space.'' [21]

PM air pollution includes smoke, fumes, soot, and particles from natural sources such as dust, pollen, sea salt, and forest fires. Incomplete combustion of organic and inorganic material in burn pits results in high volumes of toxic PM in the air that includes metals, benzene, and other toxic compounds.[22] When VA identified the qualifying periods of service under 38 CFR 3.320, the three main considerations were (1) whether burn pits were used in the location, (2) the $PM_{2.5}$ levels, and (3) desert climate. Further, VA relied on the Secretary's general rulemaking authority at 38 U.S.C. 501(a) when we established 38 CFR 3.320.

Again, taking into account the three considerations noted above, VA is proposing to remove the references to qualifying periods of service and incorporate the definition of ''covered veteran'' from section 302 of the PACT Act into 38 CFR 3.320. Section 302 of the PACT Act created new 38 U.S.C. 1119, Presumptions of toxic exposure, and defines a ''covered veteran'' as a veteran who served in the following eligible locations: Bahrain, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, Somalia, and the United Arab Emirates on or after August 2, 1990, and Afghanistan, Djibouti, Egypt, Jordan, Lebanon, Syria, Yemen, and Uzbekistan on or after September 11, 2001. VA is additionally proposing to extend the current regulatory presumption of exposure to $PM_{2.5}$ to the five new locations listed in 38 U.S.C. 1119 that are not currently recognized under § 3.320: Somalia, Egypt, Jordan, Lebanon, and Yemen.

All new locations added by section 302 of the PACT Act have documented burn pit use. In 2021, DoD provided Congress with a list of locations within U.S. Central Command where open burn pits have been used since 2001. The U.S. Central Command's Area of Responsibility consists of 21 nations that stretch from Northeast Africa across the Middle East to Central and South Asia [23] and is the only combatant command that conducts open burn pit operations.[24] Egypt, Jordan, Lebanon, and Yemen were included as locations with open, active burn pits. Somalia was not included on the list. However, there is evidence of burn pit use in Somalia prior to 1993, when service members were deployed in support of Operation Show Care.[25] Additional deployments occurred in 1992, 1995, 2012, and 2022; the latter being a ''small persistent-presence.'' [26] Available data in ILER provides evidence that service members deployed to Somalia were exposed to significant amounts of fugitive dust from airfields, residential fires and burn pit smoke, and that this contributed to elevated PM levels.

Additionally, all new locations added by section 302 of the PACT Act have similar arid desert climate conditions. DoD's 2008 Enhanced Particulate Matter Surveillance Program studied the chemical and physical properties of dust at 15 deployment sites in the Middle East, Central Asia, and Northeast Africa. The study found that Military Exposure Guideline (MEG) values for $PM_{2.5}$ were exceeded at all 15 sites for the entire one-year sampling period. The study also demonstrated how ''short-term dust events—exacerbated by dirt roads, agricultural activities, and disturbance of the desert floor by motorized vehicles—all contribute to exceedance of both PM_{10} and $PM_{2.5}$ mass exposure guidelines and standards.'' [27] Finally, DoD's report also stated that PM levels in the Middle East are as much as ten times greater than the levels at both urban and rural southwestern U.S. air monitoring sites.

Dust storms and high windblown dust concentrations are one of many environmental hazards experienced during deployment to locations within U.S. Central Command. Windblown dust in these locations is considered an airborne hazard because it combines with elemental carbon and metals that arise from transportation and industrial activities.[28] While dust in these locations can be toxic based on transportation and industrial activities alone, open air burn pits increase the concentration of toxins in $PM_{2.5}$.

All new section 1119 locations have a history of annual $PM_{2.5}$ levels that exceed military and EPA air quality standards. Not only do they exceed air quality standards, average $PM_{2.5}$ concentrations have been increasing in North Africa and the Middle East since 1990, while Europe and North America have experienced decreasing trends in average $PM_{2.5}$ concentrations.[29] Based on evidence of burn pit use, $PM_{2.5}$ levels

[19] National Academies of Sciences, Engineering, and Medicine 2020. *Respiratory Health Effects of Airborne Hazards Exposures in the Southwest Asia Theater of Military Operations.* Washington, DC: The National Academies Press. *https://doi.org/10.17226/25837.*

[20] Institute of Medicine 2011. *Long-Term Health Consequences of Exposure to Burn Pits in Iraq and Afghanistan.* Washington, DC: The National Academies Press. *https://doi.org/10.17226/13209.*

[21] National Research Council 2010. *Review of the Department of Defense Enhanced Particulate Matter Surveillance Program Report.* Washington, DC: The National Academies Press. *https://doi.org/10.17226/12911.*

[22] American Cancer Society. Military Burn Pits and Cancer Risk. 2022. Accessed at *https://www.cancer.org/healthy/cancer-causes/chemicals/burn-pits.html* on October 10, 2022.

[23] U.S. Central Command. Area of Responsibility. Accessed at *https://www.centcom.mil/AREA-OF-RESPONSIBILITY/* on September 29, 2022.

[24] Department of Defense. Open Burn Pit Report to Congress. 2019. Accessed at *https://www.acq.osd.mil/eid/Downloads/Congress/Open%20Burn%20Pit%20Report-2019.pdf* on October 1, 2022.

[25] Center of Military History, United States Army. *United States Forces, Somalia After Action Report and Historical Overview: The United States Army in Somalia, 1992–1994. https://www.history.army.mil/html/documents/somalia/index.html.*

[26] CRS Report R42738, *Instances of Use of United States Armed Forces Abroad, 1798–2022, https://crsreports.congress.gov/product/pdf/R/R42738/38.*

[27] Jiandong Wang et al., *Historical Trends in $PM_{2.5}$-Related Premature Mortality during 1990–2010 across the Northern Hemisphere.* Environmental Health Perspectives. 2017. 125:3. CID: *https://doi.org/10.1289/EHP298;* Melanie S. Hammer et al., *Global Estimates and Long-Term Trends of Fine Particulate Matter Concentrations (1998–2018).* Environ. Sci. Technol. 2020, 54, 7879–7890. *https://doi.org/10.1021/acs.est.0c01764.*

[28] Institute of Medicine 2011. *Long-Term Health Consequences of Exposure to Burn Pits in Iraq and Afghanistan.* Washington, DC: The National Academies Press. *https://doi.org/10.17226/13209.*

[29] Department of Defense. Enhanced Particulate Matter Surveillance Program (EPMSP) Final Report. 2008. *https://apps.dtic.mil/sti/pdfs/ADA605600.pdf.*

that exceed military and EPA air quality standards, and their arid desert climate conditions that exacerbate $PM_{2.5}$ levels, VA finds there is sufficient evidence to extend the presumption of exposure to $PM_{2.5}$ under 38 CFR 3.320 to Somalia, Egypt, Jordan, Lebanon, and Yemen.

Additionally, under 38 U.S.C. 1119(b)(2)(A), VA is required to establish and maintain a list that contains an identification of one or more such substances, chemicals, and airborne hazards as the Secretary, in collaboration with the Secretary of Defense, may determine appropriate for purposes of section 1119. VA proposes to add $PM_{2.5}$ as the first airborne hazard recognized as warranting a presumption of exposure under 38 U.S.C. 1119(b)(1). As discussed above, in 2021, VA established a presumption of exposure to $PM_{2.5}$ for veterans who served in the Southwest Asia theater of operations, Afghanistan, Syria, Djibouti, or Uzbekistan when it promulgated 38 CFR 3.320. Adding $PM_{2.5}$ as the first airborne hazard recognized under 38 U.S.C. 1119(b)(2)(A) will allow VA to merge the current presumption of exposure (38 CFR 3.320) with the PACT Act presumptions of service connection without having to maintain a separate presumption of exposure to $PM_{2.5}$ for the population currently eligible under 38 CFR 3.320. It avoids VA having to maintain two separate presumptions of exposure ($PM_{2.5}$ and the PACT Act (sec 406) presumption of exposure to ''burn pits and other toxins'') with almost identical covered populations. A major aim of the PACT Act was to streamline VA's decision-making process related to toxic exposure to provide faster decisions to veterans. Merging the current presumption of exposure to $PM_{2.5}$ with the PACT Act presumptions of service connection supports this aim and would improve efficiency and consistency of rating decisions.

Further, under this approach, VA would still be able to study additional health outcomes that may warrant a presumption of *service connection* based on $PM_{2.5}$ exposure. This includes reviewing body systems other than the respiratory system, as this was the main focus of VA's initial PM research. VA's presumption of exposure to $PM_{2.5}$ was rigorously analyzed through VA's established presumption process in 2021, and based on the current section 302 requirements, VA has now identified $PM_{2.5}$ as an exposure that was ubiquitous to the entire Gulf War theater of operations. VA's Health Outcomes and Military Exposures (HOME) office, in collaboration with DoD, will continue to study and evaluate the substances, chemicals, and airborne hazards experienced by deployed Gulf War Veterans. Based on these efforts, VA may add additional substances, chemicals, and airborne hazards to the list in future rulemaking.

As discussed above, in locations that rely on open burning of waste, the PM air pollution in that location will contain toxic combustion emissions. Open burning is the ''burning of any matter in such a manner that products of combustion resulting from the burning are emitted directly into the ambient or surrounding outside air without passing through an adequate stack, duct or chimney.'' [30] The Environmental Protection Agency (EPA) defines ''ambient air'' as ''that portion of the atmosphere, external to buildings, to which the general public has access.'' (40 CFR 50.1(e)). Because $PM_{2.5}$ is a form of ambient air pollution and open burning of waste emits toxic combustion emissions into the ambient air, VA considers exposure to $PM_{2.5}$ as encompassing exposure to burn pit smoke. As a result, VA will no longer maintain a separate presumptive regulation based on PM exposure, but 38 CFR 3.320 will now cover presumptions of exposure for various toxic substances, chemicals, and airborne hazards. This change will supersede the procedural concession of burn pit exposure in VA's M21–1 Adjudication Procedures Manual. Concession of burn pit exposure is now covered under the presumption of exposure to toxic substances, chemicals, and airborne hazards.

The new definition of a ''covered veteran'' in section 1119 does not include all areas historically included in the Southwest Asia theater of operations. The new definition omits the neutral zone between Iraq and Saudi Arabia, the Gulf of Aden, the Gulf of Oman, the Persian Gulf, the Arabian Sea, and the Red Sea. However, VA is proposing to maintain the current definition of the Southwest Asia theater of operations under the authority of 38 U.S.C. 501, as this definition was based on Executive Order 12744 of January 21, 1991, which designated the combat zone of the Persian Gulf War. Doing so would allow individuals with service in those locations omitted from the definition of ''covered veteran'' to still qualify as covered veterans under the regulation.

Section 406 of the PACT Act established new 38 U.S.C. 1120, Presumption of service connection for certain diseases associated with exposure to burn pits and other toxins, which added a presumption of service connection for 23 diseases. This presumption applies to covered veterans as defined in 38 U.S.C. 1119(c), as described above. Because VA is proposing to amend 38 CFR 3.320 to now govern not only claims based on $PM_{2.5}$ exposure, but also claims based on exposure to toxic substances, chemicals, and additional airborne hazards, VA proposes to add the following presumptive diseases from 38 U.S.C. 1120(b) to 38 CFR 3.320: (1) asthma; (2) head cancer of any type; (3) neck cancer of any type; (4) respiratory cancer of any type; (5) gastrointestinal cancer of any type; (6) reproductive cancer of any type; (7) lymphoma cancer of any type; (8) kidney cancer; (9) brain cancer; (10) melanoma; (11) pancreatic cancer; (12) chronic bronchitis; (13) chronic obstructive pulmonary disease; (14) constrictive bronchiolitis or obliterative bronchiolitis; (15) emphysema; (16) granulomatous disease; (17) interstitial lung disease; (18) pleuritis; (19) pulmonary fibrosis; (20) sarcoidosis; (21) chronic sinusitis; (22) chronic rhinitis; and (23) glioblastoma. VA notes that although section 406 of the PACT Act included lymphomatic cancer of any type in the list of presumptions, that term was removed from 38 U.S.C. 1120 pursuant to section 5124(a) of Public Law 117–263, as it was not a term recognized by the scientific and medical community Therefore, VA will not include lymphomatic cancer of any type in the list of presumptions included in regulation. However, ''lymphoma cancer of any type'' remains a presumptive condition for covered Gulf War veterans under 38 U.S.C. 1120.

Section 406 of the PACT Act established ''reproductive cancer of any type'' as a disease presumed to be associated with exposure to burn pits and other toxins (38 U.S.C. 1120(b)(2)(E)). The phrase reproductive cancer is not defined in the PACT Act or elsewhere in statute. As an initial matter, we propose to interpret reproductive cancer as including breast cancer. Breasts are generally considered a secondary sex characteristic, and breast tissue has unique attributes that are responsive to reproductive hormones, including estrogen and testosterone. Breast disorders may cause reproductive-related impacts. And breast cancer has been considered a reproductive cancer in other contexts,

[30] Estrellan, C.R. and Iino, F. (2010) Toxic Emissions from Open Burning. Chemosphere, 80, 193–207. *https://doi.org/10.1016/j.chemosphere.2010.03.057.*

including by the U.S. Department of Health and Human Services.[31]

Further, when determining whether to include all breast cancers, VA considered the similarities between the epidemiology, treatment, and psychosocial effects of breast cancer in males compared to females. Mutational signatures found in cancer cells show extensive core similarities between male and female breast cancer, supporting a view that these cancers have common etiologic processes. In addition, risk factors for breast cancer in men are the same as or analogous to risk factors for breast cancer in women.[32] Given the marked similarity of male and female breast cancer across a range of factors, especially common risk factors and mutational signatures, the Secretary has determined that VA policy should apply equally to veterans with breast cancer regardless of sex or gender. Based on the Secretary's decision, VA is proposing that all breast cancers be considered reproductive cancer of any type under 38 U.S.C. 1120 and be eligible for presumptive service connection for covered veterans.

Following VA's review of eligible reproductive cancers under the PACT Act, VA has also determined that it is reasonable to interpret ''reproductive cancer of any type'' as including cancer of the urethra and cancer of the paraurethral glands. The urethra is the tube that carries urine from the bladder to outside the body. In women, the urethra is about 1½ inches long and is just above the vagina. In men, the urethra is about 8 inches long, and goes through the prostate gland and the penis to the outside of the body. In men, the urethra also carries semen.[33] Because it transports seminal fluid, the urethra is a part of the reproductive system in males. In female human anatomy, paraurethral glands (also known as the Skene glands or lesser vestibular glands) are located around the lower end of the urethral meatus.[34] The paraurethral glands are located in the vestibule of the vulva, around the lower end of the urethra. Two ducts lead from the paraurethral glands to the vulvar vestibule, to the left and right of the urethral opening, from which they are structurally capable of secreting fluid. One purpose of the paraurethral glands is to secrete a fluid that helps lubricate the urethral opening.[35]

Because the paraurethral glands and the male prostate act similarly by secreting prostate-specific antigen (PSA), which is an ejaculate protein produced in males, and of prostate-specific acid phosphatase, some medical authorities refer to the paraurethral glands as the ''female prostate''.[36] They are homologous to the male prostate (developed from the same embryological tissues).

The Secretary has determined that VA policy should apply equally to Veterans filing claims for service connection regardless of sex, sexual orientation, gender, and/or or gender identity. Therefore, VA is proposing that urethral cancers, to include cancer of the paraurethral glands, be considered reproductive cancer of any type under 38 U.S.C. 1120 and be eligible for presumptive service connection for covered veterans.

Finally, section 406 adds a distinction after listing asthma as a presumptive condition under 38 U.S.C. 1120. The PACT Act specifies that asthma must be ''diagnosed after service of the covered veteran as specified in section 1119(c).'' This means the presumption only applies when asthma is diagnosed after service. Per 38 CFR 3.303(d), presumptive periods are not intended to limit service connection to diseases diagnosed after service when the evidence warrants direct service connection. The presumptive regulations are intended as liberalizations applicable when the evidence would not warrant service connection without their aid. Therefore, requiring that asthma be diagnosed after service in order for a presumption of service connection to apply conflicts with the basic principle of presumptive service connection. Therefore, VA will implement the PACT Act presumption for asthma without the qualifying language that requires the condition to be diagnosed after the covered service in section 1119(c).

VA notes that new sections 1119 and 1120 provide a service-connection pathway distinct from that provided under section 1117 (undiagnosed illness and MUCMI). Therefore, VA is proposing to codify new sections 1119 and 1120 under 38 CFR 3.320 rather than 38 CFR 3.317.

VA is proposing to change the heading of 38 CFR 3.320 to replace the term ''fine particulate matter'' with ''toxic substances, chemicals, and airborne hazards.'' This change is needed to make clear that under this proposal, 38 CFR 3.320 would no longer be specific to a single exposure ($PM_{2.5}$) but would govern all claims based on exposure to toxic substances, chemicals, and airborne hazards for covered veterans. VA is proposing to describe the presumption of exposure in paragraph (a), describe the presumptions of service connection in paragraph (b), provide the definition of covered veteran in paragraph (c), and keep the existing exceptions in paragraph (d).

Finally, section 406 of the PACT Act does not require that any of the listed diseases manifest to a specific level or within a specific presumptive period for presumptions of service connection under 38 U.S.C. 1120. VA is proposing to codify 38 U.S.C. 1120 under § 3.320 as described above as required by the PACT Act.

VI. Severability

The purpose of this section is to clarify the agencies' intent with respect to the severability of provisions of this proposed rule. Each provision that the agency has proposed is capable of operating independently. If any provision of this proposed rule is determined by judicial review or operation of law to be invalid, that partial invalidation will not render the remainder of this proposed rule invalid. Likewise, if the application of any portion of this proposed rule to a particular circumstance is determined to be invalid, the agencies intend that the rulemaking remain applicable to all other circumstances.

VII. Effective Date and Applicability

Section 406 of the PACT Act prescribed phased-in and criteria-based applicability dates for 11 of the 23 new presumptive conditions. All claims

[31] Reproductive Cancers, HHS Office of Population Affairs, available at *https://opa.hhs.gov/reproductive-health/reproductive-cancers,* last accessed June 1, 2023.

[32] Fentiman IS. The endocrinology of male breast cancer. Endocr Relat Cancer. 2018 Jun;25(6):R365–R373. doi: 10.1530/ERC–18–0117. PMID: 29752333; Davey M.G., Davey C.M., Bouz L., Kerin E., McFeetors C., Lowery A.J., Kerin M.J., Relevance of the 21-gene expression assay in male breast cancer: A systematic review and meta-analysis. *Breast.* 2022;64:41–46; Valentini V., Silvestri V., Bucalo A., Conti G., Karimi M., Di Francesco L., Pomati G., Mezi S., Cerbelli B., Pignataro M.G., Nicolussi A., Coppa A., D'Amati G., Giannini G., Ottini L. Molecular profiling of male breast cancer by multigene panel testing: Implications for precision oncology. Front Oncol. 2023 Jan 6;12:1092201. doi: 10.3389/fonc.2022.1092201.

[33] National Cancer Institute. *https://www.cancer.gov/types/urethral/patient/urethral-treatment-pdq.*

[34] Dorland, W.A. Newman 1864–1956. *Dorland's Illustrated Medical Dictionary.* 29th ed. Philadelphia, Saunders, 2000.

[35] Pastor Z., Chmel R., (2017). ''Differential diagnostics of female ''sexual'' fluids: a narrative review''. International Urogynecology Journal. 29 (5): 621–629. doi:10.1007/s00192–017–3527–9. PMID 29285596. S2CID 5045626.

[36] Bullough, Vern L.; Bullough, Bonnie (2014). Human Sexuality: An Encyclopedia. Routledge. p. 231. ISBN 978–1135825096; Diane Tomalty, Olivia Giovannetti et al.: Should We Call It a Prostate? A Review of the Female Periurethral Glandular Tissue Morphology, Histochemistry, Nomenclature, and Role in Iatrogenic Sexual Dysfunction. In: Sexual Medicine Reviews. Volume 10, Issue 2, April 2022, page 183–194.

based on section 406 will be effective on the date of enactment of the Act; however, section 406 would stagger the dates that VA would be required to effectuate payment of compensation. The Act provides an exception to the phased-in applicability dates for veterans meeting certain priority criteria. Specifically, new presumptions under section 406 are applicable on the date of enactment of the Act for claims for dependency and indemnity compensation (DIC) and for veterans whom the Secretary determines are terminally ill, homeless, under extreme financial hardship, more than 85 years old, or capable of demonstrating other sufficient cause. For claimants not meeting one of the priority-based criteria, the applicability date of the presumption would be established as one of the following staggered dates: October 1, 2022, October 1, 2023, October 1, 2024, October 1, 2025, and October 1, 2026. As stated above, these phased-in applicability dates apply to 11 of the 23 new presumptive conditions under 38 U.S.C. 1120.

However, the Secretary has determined that the text of the PACT Act provides VA with authority to treat all new presumptions in section 406 of the PACT Act as immediately applicable, and the Secretary has chosen to exercise this authority. The Secretary has determined that all veterans presenting a claim for disability compensation for which service connection could be established based on the presumptions in section 406 are ''capable of demonstrating other sufficient cause,'' entitling those veterans to an applicability date concurrent with the date of enactment of the PACT Act. While the Secretary recognizes that Congress enumerated phased-in applicability dates, Congress also provided an extremely broad ''catch-all'' at the end of categories of cases that would justify immediate applicability of an otherwise phased-in presumption. This final category is textually broad and left undefined, providing the Secretary with significant discretion to expand the universe of cases for which otherwise phased-in presumptions under section 406 can be treated as immediately applicable. In making this determination, the Secretary considered first and foremost the health and economic needs of veterans, and specifically the serious nature of exposure to toxins in combat zones and the associated health effects from such exposures. Additionally, while phased-in applicability dates intuitively might help manage the significant increase in claims inventory that will result from the Act, VA estimates that phased-in applicability dates would result in between 900,000 and 1.5 million veterans having to wait up to four years for a decision on their claim, whereas acceleration of the applicability dates would avoid making veterans wait years. Further, rather than the administrative complexity and claimant confusion that would inevitably be created by having to hold many thousands of claims pending arrival of the phased-in applicability dates, immediate applicability ensures a simple, streamlined policy that will be easy for veterans and their families to understand and for VA to implement with consistency and efficiency.

For these reasons, the Secretary has determined to treat all presumptions in the PACT Act as applicable upon enactment and is proposing to add a new paragraph (e) to § 3.320 to reflect this determination.

VIII. Public Participation

Interested persons or organizations are invited to participate in this rulemaking by submitting written comments, recommendations, and data on any topic covered in this proposal. In addition, VA invites comments specifically on the following questions related to this rulemaking:

(1) What other factors and/or types of evidence should be considered when determining if participation in a TERA should be conceded?

(2) Are there additional TERA examination exceptions that should be implemented? If so, what are some examples of exceptions that should be considered? For example, the agency invites comment on the appropriateness of an exception that would apply if a veteran has not affirmatively indicated the presence of a TERA.

(3) Considering that the definition of TERA has an impact on the provision of medical examinations and nexus opinions under 38 U.S.C. 1168 and the provision of health care pursuant to 38 U.S.C. 1710(e)(4)(C), what additional activities or factors should the Secretary consider when determining what qualifies as TERA?

(4) Would it be appropriate to require that the veteran affirmatively assert the existence of a TERA in order for their claim to be considered under 38 U.S.C. 1168/TERA procedure?

VA welcomes comments from the public on all aspects of this proposed rule. This information will be utilized by VA to enhance our sub-regulatory guidance, inform the final rule, and improve consistency and transparency in our decision-making. All comments received by the closing date will be considered prior to final action.

IX. Revise Remainder of 38 CFR 3.1

Because VA is amending 38 CFR 3.1, VA is also required to bring the authority citations for the entirety of the regulation into compliance with 1 CFR 21.43. For § 3.1, VA is proposing to revise § 3.1(d), (j), (m), (r), (s), (t), (x), (y), (aa)(1) and (2) to amend the authority citations. These are not substantive changes, but rather changing the placement of the authority in regulation. Although VA is also making changes to §§ 3.159, 3.317, and 3.320, VA is addressing the changes to authority to § 3.159 in a separate rulemaking, and there are no authority changes required for §§ 3.317 or 3.320.

Executive Orders 12866, 13563 and 14094

Executive Order 12866 (Regulatory Planning and Review) directs agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 14094 (Executive Order on Modernizing Regulatory Review) supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in Executive Order 12866 of September 30, 1993 (Regulatory Planning and Review), and Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rulemaking is a significant regulatory action under Executive Order 12866, section 3(f)(1), as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Regulatory Flexibility Act (RFA)

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The factual basis for this certification is that no small entities or businesses provide Federal compensation or pension

benefits to veterans, and such entities or businesses therefore would be unaffected by the proposed rule. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This proposed rule would have no such effect on State, local, and Tribal governments, or on the private sector.

Paperwork Reduction Act (PRA)

Although this proposed rule contains a collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), there are no provisions associated with this rulemaking constituting any new collection of information or any revisions to the current collection of information. The collection of information for 38 CFR 3.1, 3.159, 3.307, 3.309, 3.311, 3.317, 3.320, is currently approved by the Office of Management and Budget (OMB) and has a valid OMB control number of 2900–0747 and 2900–0886.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on September 19, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 3 as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.1 by:
■ a. Revising paragraphs (d) introductory text, (j), (m), (r), (s), (t), (x), (y) introductory text, and (aa)(1) and (2); and
■ 3. Adding paragraphs (bb) through (dd).

The revisions and additions read as follows:

§ 3.1 Definitions.

* * * * *

(d) *Veteran* means a person who served in the active military, naval, air, or space service and who was discharged or released under conditions other than dishonorable under 38 U.S.C. 101(2).

* * * * *

(j) *Marriage* means a marriage valid under the law of the place where the parties resided at the time of marriage, or the law of the place where the parties resided when the right to benefits accrued under 38 U.S.C. 103(c)).

* * * * *

(m) In line of duty, per 38 U.S.C. 105, means an injury or disease incurred or aggravated during a period of active military, naval, air, or space service unless such injury or disease was the result of the veteran's own willful misconduct or, for claims filed after October 31, 1990, was a result of his or her abuse of alcohol or drugs. A service department finding that injury, disease or death occurred in line of duty will be binding on the Department of Veterans Affairs unless it is patently inconsistent with the requirements of laws administered by the Department of Veterans Affairs. Requirements as to line of duty are not met if at the time the injury was suffered or disease contracted the veteran was:

* * * * *

(r) *Date of receipt* means the date on which a claim, information or evidence was received in the Department of Veterans Affairs, except as to specific provisions for claims or evidence received in the State Department (§ 3.108), or in the Social Security Administration (§§ 3.153, 3.201), or Department of Defense as to initial claims filed at or prior to separation. However, the Under Secretary for Benefits may establish, by notice published in the **Federal Register**, exceptions to this rule, using factors such as postmark or the date the claimant signed the correspondence, when he or she determines that a natural or man-made interference with the normal channels through which the Veterans Benefits Administration ordinarily receives correspondence has resulted in one or more Veterans Benefits Administration offices experiencing extended delays in receipt of claims, information, or evidence from claimants served by the affected office or offices to an extent that, if not addressed, would adversely affect such claimants through no fault of their own (38 U.S.C. 512(a), 5110).

(s) *On the borders thereof* means, with regard to service during the Mexican border period, the States of Arizona, California, New Mexico, and Texas, and the nations of Guatemala and British Honduras (38 U.S.C. 101(30)).

(t) *In the waters adjacent thereto* means, with regard to service during the Mexican border period, the waters (including the islands therein) which are within 750 nautical miles (863 statute miles) of the coast of the mainland of Mexico (38 U.S.C. 101(30)).

* * * * *

(x) *Service pension* is the name given to Spanish-American War pension. It is referred to as a service pension because entitlement is based solely on service without regard to nonservice-connected disability, income and net worth. (38 U.S.C. 1512, 1536).

(y) *Former prisoner of war.* The term *former prisoner of war* means a person who, while serving in the active military, naval, air, or space service, was forcibly detained or interned in the line of duty by an enemy or foreign government, the agents of either, or a hostile force under 38 U.S.C. 101(32).

* * * * *

(aa) * * *

(1) As used in 38 U.S.C. 103 and implementing regulations, fraud means an intentional misrepresentation of fact, or the intentional failure to disclose pertinent facts, for the purpose of obtaining, or assisting an individual to obtain an annulment or divorce, with knowledge that the misrepresentation or failure to disclose may result in the erroneous granting of an annulment or divorce; and

(2) As used in 38 U.S.C. 110 and 1159 and implementing regulations, fraud means an intentional misrepresentation of fact, or the intentional failure to disclose pertinent facts, for the purpose of obtaining or retaining, or assisting an individual to obtain or retain, eligibility for Department of Veterans Affairs

benefits, with knowledge that the misrepresentation or failure to disclose may result in the erroneous award or retention of such benefits.

(bb) *Toxic exposure risk activity* means:

(1) Any activity that requires a corresponding entry in an exposure tracking record system for the veteran who carried out the activity; or

(2) Any activity that the Secretary determines qualifies for purposes of this section when taking into account what is reasonably prudent to protect the health of veterans.

(cc) *Exposure tracking record system* means:

(1) Any system, program, or pilot program used by the Secretary of Veterans Affairs or the Secretary of Defense to track how veterans or members of the Armed Forces have been exposed to various occupational or environmental hazards; and

(2) Includes the Individual Longitudinal Exposure Record, or successor system.

(dd) *Physical trauma* means a serious injury to the body. The three types of physical trauma are as follows:

(i) Blunt force trauma—when an object or force strikes the body, often causing concussions, deep cuts, or broken bones;

(ii) Trauma due to repetitive use—when repeated stress to the body's soft tissue structures, including muscles, tendons, and nerves, results in repetitive strain injuries; and

(iii) Penetrating trauma—when an object pierces the skin or body, usually creating an open wound. Penetrating trauma due to embedded fragments (to include shrapnel) does not fall under this definition.

(Authority: 38 U.S.C. 101, 103, 105, 110, 501, 512, 1159, 1168, 1512, 1536, 1742, 5110)

■ 4. Amend § 3.159 by:

■ a. Revising paragraphs (c)(4)(i) and (ii);

■ b. Redesignating paragraphs (c)(4)(iii) and (iv) as paragraphs (c)(4)(v) and (vi), respectively; and

■ c. Adding new paragraphs (c)(4)(iii) and (iv).

The revisions and additions read as follows:

§ 3.159 Department of Veterans Affairs assistance in developing claims.

* * * * *

(c) * * *

(4) *Providing medical examinations or obtaining medical opinions.* (i) Except as provided in paragraphs (c)(4)(iii) and (iv) of this section, in a claim for disability compensation, VA will provide a medical examination or obtain a medical opinion based upon a review of the evidence of record if VA determines it is necessary to decide the claim. A medical examination or medical opinion is necessary if the information and evidence of record does not contain sufficient competent medical evidence to decide the claim, but:

(A) Contains competent lay or medical evidence of a currently diagnosed disability or persistent or recurrent symptoms of disability;

(B) Establishes that the veteran suffered an event, injury or disease in service, or has a disease or symptoms of a disease listed in §§ 3.309, 3.313, 3.316, 3.317, and 3.320 manifesting during an applicable presumptive period provided the claimant has the required service or triggering event to qualify for that presumption; and

(C) Indicates that the claimed disability or symptoms may be associated with the established event, injury, or disease in service or with another service-connected disability.

(ii) Paragraph (c)(4)(i)(C) of this section could be satisfied by competent evidence showing post-service treatment for a condition, or other possible association with military service.

(iii) Except as provided in paragraph (c)(4)(iv) of this section, when a claim that cannot be considered on a presumptive basis is received, VA will provide a medical examination and medical nexus opinion if the evidence of record does not contain sufficient competent medical evidence to establish service connection, but only if the claim:

(A) Contains competent lay or medical evidence of a current disability; and

(B) Establishes that the veteran participated in a toxic exposure risk activity as defined in § 3.1(bb).

(iv). The Secretary has determined that there is no indication of an association between toxic exposure risk activities and the disabilities, conditions, and circumstances listed in paragraphs (c)(4)(iv)(A) through (D) of this section. A VA examination and medical nexus opinion will not be required for claims that cannot be considered on a presumptive basis and evidence establishes that the veteran participated in a toxic exposure risk activity if evidence shows:

(A) The disability is the result of physical trauma as defined in § 3.1(dd); or

(B) The claimed condition is a mental disorder; or

(C) The disability manifested during military service or has an etiology not associated with toxic exposure; or

(D) The only participation in a toxic exposure risk activity that is established relates to herbicide exposure and the veteran claims any of the following conditions:

(*1*) Cancers of the oral cavity (including lips and tongue), pharynx (including tonsils), and nasal cavity (including ears and sinuses);

(*2*) Cancers of the pleura, mediastinum, and other unspecified sites within the respiratory system and intrathoracic organs;

(*3*) Cancers of the digestive organs (esophageal cancer; stomach cancer; colorectal cancer (including small intestine and anus), hepatobiliary cancers (liver, gallbladder, and bile ducts), and pancreatic cancer);

(*4*) Bone and connective tissue cancer;

(*5*) Melanoma;

(*6*) Nonmelanoma skin cancer (basal cell and squamous cell);

(*7*) Cancers of the reproductive organs (cervix, uterus, ovary, breast, testes, and penis; not including prostate);

(*8*) Cancers of the brain and nervous system (including eye);

(*9*) Endocrine cancers (including thyroid and thymus);

(*10*) Leukemia (other than all chronic B-cell leukemias including chronic lymphocytic leukemia and hairy cell leukemia);

(*11*) Neurobehavioral disorders (cognitive and neuropsychiatric); Neurodegenerative diseases (including amyotrophic lateral sclerosis (ALS) but not including Parkinson's disease and Parkinsonism);

(*12*) Chronic peripheral nervous system disorders (other than early-onset peripheral neuropathy);

(*13*) Asthma;

(*14*) Chronic obstructive pulmonary disease;

(*15*) Farmer's lung;

(*16*) Gastrointestinal, metabolic, and digestive disorders;

(*17*) Immune system disorders (immune suppression, allergy, and autoimmunity);

(*18*) Circulatory disorders (other than hypertension, ischemic heart disease, and stroke);

(*19*) Endometriosis;

(*20*) Hearing loss;

(*21*) Diseases of the eye; and

(*22*) Osteoporosis.

(E) The exceptions under paragraphs (c)(4)(iv)(A) through (D) of this section will not apply if the veteran submits competent scientific or medical evidence that indicates that the claimed disability or condition may be associated with the in-service toxic exposure risk activity.

(F) The only participation in a toxic exposure risk activity that is established is based on an entry in an exposure tracking record system, as defined in § 3.1(cc), that does not corroborate a veteran's potential exposure to toxic substances, chemicals, or airborne hazards during military service.

(G) The only participation in a toxic exposure risk activity that is established is based on an entry in an exposure tracking record system, as defined in § 3.1(cc), that is based on the veteran's report of exposure to toxic substances, chemicals, or airborne hazards that cannot be substantiated.

* * * * *

■ 4. Amend § 3.317 by revising the section heading and paragraphs (a)(1), (c)(3)(ii), and (e)(1) to read as follows:

§ 3.317 Presumption of service connection for certain undiagnosed illnesses and medically unexplained chronic multi-symptom illnesses occurring in Persian Gulf veterans.

(a) * * *

(1) Except as provided in paragraph (a)(7) of this section, VA will pay compensation in accordance with 38 U.S.C. chapter 11, to a Persian Gulf veteran who exhibits objective indications of a qualifying chronic disability that became manifest to any degree at any time, provided that such disability, by history, physical examination, and laboratory tests, cannot be attributed to any known clinical diagnosis.

* * * * *

(c) * * *

(3) * * *

(ii) For purposes of this paragraph (c), the term *qualifying period of service* means service in the Southwest Asia theater of operations during the Gulf War or a period of active military, naval, or air service on or after September 19, 2001, in Afghanistan.

* * * * *

(e) *Service.* For purposes of this section:

(1) The term *Persian Gulf veteran* means a veteran who served on active military, naval, or air service in the Southwest Asia theater of operations, Afghanistan, Israel, Egypt, Turkey, Syria, or Jordan, during the Persian Gulf War.

* * * * *

■ 5. Revise § 3.320 to read as follows:

§ 3.320 Presumptive service connection based on exposure to toxic substances, chemicals, and airborne hazards.

(a) *Presumption of exposure.* A covered veteran as defined in paragraph (c) of this section, and required by 38 U.S.C. 1119(b), shall be presumed to have been exposed to the following toxic substances, chemicals, and airborne hazards during such service, unless there is affirmative evidence to establish that the veteran was not exposed to any such toxic substances, chemicals, and airborne hazards during that service.

(1) Fine particulate matter.

(2) [Reserved]

(b) *Presumption of service connection.* Except as provided in paragraph (d) of this section, the following diseases becoming manifest in a covered veteran, as defined in paragraph (c) of this section, shall be considered to have been incurred in or aggravated during active military, naval, air, or space service, notwithstanding that there is no record of evidence of such disease during the period of such service.

(1) Asthma.

(2) Head cancer of any type.

(3) Neck cancer of any type.

(4) Respiratory cancer of any type.

(5) Gastrointestinal cancer of any type.

(6) Reproductive cancer of any type.

(7) Lymphoma cancer of any type.

(8) Kidney cancer.

(9) Brain cancer.

(10) Melanoma.

(11) Pancreatic cancer.

(12) Chronic bronchitis.

(13) Chronic obstructive pulmonary disease.

(14) Constrictive bronchiolitis or obliterative bronchiolitis.

(15) Emphysema.

(16) Granulomatous disease.

(17) Interstitial lung disease.

(18) Pleuritis.

(19) Pulmonary fibrosis.

(20) Sarcoidosis.

(21) Chronic sinusitis.

(22) Chronic rhinitis.

(23) Glioblastoma.

(c) *Covered veteran.* For purposes of this section, the term covered veteran means any veteran who:

(1) On or after August 2, 1990, performed active military, naval, air, or space service while assigned to a duty station in, including airspace above:

(i) The Southwest Asia theater of operations as defined in § 3.317(e)(2); or

(ii) Somalia; or

(2) On or after September 11, 2001, performed active military, naval, air, or space service while assigned to a duty station in, including airspace above:

(i) Afghanistan;

(ii) Djibouti;

(iii) Egypt;

(iv) Jordan;

(v) Lebanon;

(vi) Syria;

(vii) Yemen; or

(viii) Uzbekistan.

(d) *Exceptions.* A disease listed in paragraph (b) of this section shall not be presumed service connected if there is affirmative evidence that:

(1) The disease was not incurred or aggravated during active military, naval, air, or space service; or

(2) The disease was caused by a supervening condition or event that occurred between the veteran's most recent departure from active military, naval, air, or space service and the onset of the disease; or

(3) The disease is the result of the veteran's own willful misconduct.

(e) *Special applicability date provision.* The Secretary has determined that all veterans presenting a claim for disability compensation for which service connection could be established based on the presumptions in section 406 of Public Law 117–168 are ''capable of demonstrating other sufficient cause,'' entitling those veterans to an applicability date for the presumptions concurrent with the date of enactment of Public Law 117–168.

(Authority: 38 U.S.C. 501, 1119, 1120)

[FR Doc. 2024–21852 Filed 9–30–24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2024–0083; FRL–11767–01–R2]

Finding of Failure To Attain the Primary 2010 1-Hour Sulfur Dioxide Standard for the San Juan and Guayama-Salinas Nonattainment Areas; Approval and Conditional Approval of Air Quality State Implementation Plans; Puerto Rico; Attainment Plan for the 2010 1-Hour Sulfur Dioxide Standard for the San Juan and Guayama-Salinas Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing two actions related to attainment of the 2010 primary 1-hour sulfur dioxide (SO_2) National Ambient Air Quality Standard (NAAQS or ''standard''). First, the EPA is proposing to determine that the San Juan and Guayama-Salinas SO_2 Nonattainment Areas (NAAs) failed to attain the 2010 primary 1-hour SO_2 NAAQS by the applicable attainment date of April 9, 2023, based upon a technical analysis of various evidence

available (*i.e.,* weight-of-evidence analysis). If the EPA finalizes this determination as proposed, within one year, Puerto Rico will be required to submit revisions to the Puerto Rico State Implementation Plan (SIP) that, among other elements, provide for expeditious attainment of the 2010 SO_2 standard no later than five years from the publication date of the final rule. Second, the EPA is proposing to approve certain elements of Puerto Rico's November 22, 2022, SIP revision (hereinafter referred to as the ''plan''), which was submitted to demonstrate attainment of the 2010 primary 1-hour SO_2 standard in the San Juan and Guayama-Salinas NAAs. Elements being proposed for approval include Puerto Rico's nonattainment new source review (NNSR) program and the base year emissions inventory. Finally, the EPA is proposing to approve in part, and conditionally approve in part, for SIP-strengthening purposes, other remaining elements of the plan, including amendments to Puerto Rico's Regulation for the Control of Atmospheric Pollution (or RCAP), which include control measures, emissions limitations, and reporting requirements for sources in the NAAs.

DATES:

Comments: Written comments must be received on or before December 2, 2024.

Public Information Sessions: The EPA will hold two public information sessions on this proposed rulemaking in Puerto Rico on dates and locations to be determined and announced at a later date.

For more information on the public information sessions, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–OAR–2024–0083 at *https://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.,* Controlled Unclassified Information (CUI) (formally referred to as Confidential Business Information (CBI)) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be CUI or other information whose disclosure 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 CUI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. The files will also be made available by appointment for public inspection between the hours of 9:00 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person(s) listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. We may charge you a reasonable fee for copying parts of the docket.

FOR FURTHER INFORMATION CONTACT: Nicholas Ferreira, Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, New York 10007–1866, at (212) 637–3127, or by email at *ferreira.nicholas@epa.gov,* and/or Andres Febres, Environmental Protection Agency, Region 2, Caribbean Environmental Protection Division Office, City View Plaza II, #48 RD. 165 km 1.2, Guaynabo, Puerto Rico, 00968–8069, at (787) 977–5801, or by email at *febres-martinez.andres@epa.gov.*

SUPPLEMENTARY INFORMATION:

Public Information Session

The EPA intends to provide two public information sessions concerning this proposed rule. The EPA will announce the date, time, and location for each session on its website. These public information sessions will provide informal opportunities for members of the public to learn about this proposed action. The EPA anticipates these sessions will allow the public to be better informed when submitting formal comments during the 60-day comment period for this proposed action.

A translator will be present at the public engagement sessions to ensure participants are able to understand the information provided by the EPA. There will be no recording or transcript of these public information sessions since these sessions are not considered to be formal public hearings. Statements made and/or questions asked at these sessions will not be considered formal comments on the proposed rule and will not be included in the EPA's response to comments, unless submitted as a formal comment on the record.

Members of the public who wish to formally comment should do so during the 60-day public comment period provided following the publication of this proposed rule.

This notice is organized as follows:

Table of Contents

I. Background

A. The 2010 SO_2 NAAQS

Under section 109 of the Clean Air Act (CAA), the EPA has established primary and secondary NAAQS for certain pervasive air pollutants (referred to as ''criteria pollutants'') and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The primary NAAQS represent ambient air quality standards the attainment and maintenance of which the EPA has determined, including a margin of safety, are requisite to protect the public health. The secondary NAAQS represent ambient air quality standards the attainment and maintenance of which the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.

Under the CAA, the EPA must establish NAAQS for criteria pollutants, including SO_2. SO_2 is primarily released to the atmosphere through the burning of fossil fuels by power plants and other industrial facilities. Short-term exposure to SO_2 can damage the human respiratory system and increase breathing difficulties. Small children and people with respiratory conditions, such as asthma, are more sensitive to the effects of SO_2. Sulfur oxides at high concentrations in ambient air can also react with compounds to form small particulates that can penetrate deeply into the lungs and cause health problems.

The EPA first established primary SO_2 standards in 1971 at 0.14 parts per million (ppm) over a 24-hour averaging period and 0.3 ppm over an annual averaging period.[1] On June 22, 2010, the EPA revised the primary NAAQS for SO_2 and published a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb).[2] The intent of this revision is to provide increased protection of public health, providing for revocation of the 1971 primary annual and 24-hour SO_2 standards for most areas of the country following area designations under the new NAAQS.

The 2010 standard is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, or 0.075 ppm, as determined in accordance with Appendix T of 40 CFR part 50.17. The EPA established the SO_2 NAAQS based on significant evidence and numerous studies demonstrating that serious health effects are associated with short-term exposures to SO_2 emissions ranging from five minutes to 24 hours, including an array of adverse respiratory effects such as narrowing of the airways, which can cause difficulty breathing (bronchoconstriction) and increased asthma symptoms. For more information regarding the health impacts of SO_2, please refer to the June 22, 2010 final rulemaking. *See* 75 FR 35520, codified at 40 CFR 50.17.

B. Designations and Attainment Date Requirements for the 2010 SO_2 NAAQS

Following promulgation of a new or revised NAAQS, the EPA is required by the CAA to designate areas throughout the United States as attaining or not attaining the NAAQS; this designation process is described in section 107(d)(1)–(2) of the CAA. For the 2010 SO_2 NAAQS, the EPA defined a nonattainment area (NAA) as an area that the EPA determined violates the 2010 1-hour primary SO_2 NAAQS and/or contributes to a violation in a nearby area, based on the most recent 3 years of air quality monitoring data, appropriate dispersion modeling analysis, and any other relevant information.[3]

On January 9, 2018, the EPA, as part of the third round[4] of area designations for the 2010 1-hour primary SO_2 NAAQS, designated six areas of the country as nonattainment, including the San Juan and Guayama-Salinas NAAs.[5] These area designations had an effective date of April 9, 2018.

Areas designated nonattainment for the SO_2 NAAQS are subject to the general NAA planning requirements of CAA section 172 and to the SO_2-specific planning requirements of subpart 5 of part D of Title I of the CAA (sections 191 and 192). All components of the SO_2 part D nonattainment area SIP, including the emissions inventory, attainment demonstration, reasonably available control measures (RACM) and reasonably available control technology (RACT), enforceable emissions limitations and control measures, Reasonable Further Progress (RFP) plan, nonattainment New Source Review (NNSR) program, and contingency measures, are due to the EPA within 18 months of the effective date of designation of a nonattainment area under CAA section 191.

Therefore, the nonattainment area SIPs for areas designated effective April 9, 2018, were due on October 9, 2019. These SIPs are required to demonstrate that their respective areas will attain the 2010 1-hour primary SO_2 NAAQS as expeditiously as practicable, but no later than five years from the effective date of designation, or by April 9, 2023, for the San Juan and Guayama-Salinas NAAs.

C. Finding of Failure To Submit and SIP Submittal

For a number of SO_2 NAAs, including the San Juan and Guayama-Salinas NAAs, the EPA published an action on November 3, 2020, effective December 3, 2020, finding that Puerto Rico and other pertinent states had failed to submit the required SO_2 nonattainment plan by the submittal deadline. *See* 85 FR 69504. This finding initiated a deadline under CAA section 179(a) for the potential imposition of two sanctions clocks related to new source review offsets (*i.e.,* ''2-to-1 offsets'') and highway funding, within 18 and 24 months of the findings, respectively, unless the states and territories subject to the finding made the necessary complete SIP submittal. Additionally, this finding initiated a deadline under CAA section 110(c) for the EPA to promulgate a Federal Implementation Plan (FIP) within two years of the finding unless, by that time, the EPA had approved the submittal as meeting applicable requirements.

On June 3, 2022, the 2-to-1 offset sanctions took effect within the Puerto Rico NAAs. Before the highway funding sanctions could go into effect within the NAAs on December 3, 2022, the Puerto Rico Department of Natural and Environmental Resources (PRDNER) submitted a nonattainment plan for the San Juan and Guayama-Salinas NAAs (*i.e.,* San Juan and Guayama-Salinas SO_2 plan) on November 22, 2022, and the EPA deemed the PRDNER's submittal administratively and technically complete on December 2, 2022. As a

[1] *See* 36 FR 8186 (April 30, 1971).

[2] *See* 75 FR 35520 (June 22, 2010), codified at 40 CFR 50.17(a)–(b).

[3] *See* 83 FR 1101 (Jan. 9, 2018).

[4] 83 FR 1098 (Jan. 9, 2018), codified at 40 CFR part 81, subpart C.

[5] The EPA completed its first round of initial area designations for the 2010 1-hour primary SO_2 NAAQS effective October 4, 2013. *See* 78 FR 47191 (Aug. 5, 2013). A second round of designations was effective September 12, 2016, with a supplement effective January 17, 2017. *See* 81 FR 45039 (July 12, 2016) and 81 FR 89870 (Dec. 13, 2016), respectively. A fourth round of designations was effective April 30, 2021. *See* 86 FR 16055 (Mar. 26, 2021).

result of the EPA's determination, the 2-to-1 offset sanctions clock was stopped and the highway sanctions never took effect, per the EPA's sanctions regulations at 40 CFR 52.31; however, this completeness determination did not terminate the EPA's FIP obligation that was triggered by the EPA's November 3, 2020, Finding of Failure to Submit.

Within the San Juan and Guayama-Salinas SO_2 plan, amendments to Puerto Rico's RCAP were submitted for the EPA's approval. The RCAP amendments incorporate the SO_2 control measures and nonattainment provisions of the SO_2 plan and would become federally enforceable upon final approval by the EPA. The RCAP amendments consist of revisions to Rule 102, ''Definitions,'' as well as the adoption of Rule 210, ''Non-Attainment Provisions,'' and Rule 425, ''Provisions for SO_2 Non-Attainment Areas.'' [6] The PRDNER's permitting requirements to construct new sources or modify major sources of emissions of SO_2 and other pollutants in NAAs, including the San Juan and Guayama-Salinas NAAs, are set forth in the revisions to Rule 102, ''Definitions,'' and the recently adopted Rule 210, ''Nonattainment Provisions.'' Finally, the recently promulgated Rule 425 was adopted to include control measures, emission limits, test methods and procedures, reporting and recordkeeping requirements, and contingency measures for the San Juan and Guayama-Salinas NAAs.

D. Puerto Rico's Integrated Resource Plan

The compliance strategy for Puerto Rico's SIP, and the accompanying RCAP amendments, were developed based on the most recent Integrated Resource Plan (IRP) approved by the Puerto Rico Energy Bureau (PREB),[7] as well as additional updates provided by the PREB, which considered emission unit retirements within the San Juan and Guayama-Salinas NAAs following the integration of renewable energy sources.

The IRP is a plan that is required under Puerto Rico law, with the purpose of providing cost-effective electrical power to meet Puerto Rico's energy demand over a twenty-year planning period, while considering energy conservation, resiliency, reliability, efficiency, transparency, and the environment. Under Act 57–2014,[8] a Puerto Rico law known as the Puerto Rico Energy Transformation and RELIEF Act, the Puerto Rico Electric Power Authority (PREPA), or the electric utility responsible for the operation of the electric power transmission and distribution system (currently LUMA Energy), is required to prepare an IRP for the PREB's approval, which considers reasonable resources to satisfy energy demand for up to a twenty-year period. Puerto Rico's electric utility is also responsible for updating the plan at least every three years to reflect changes in energy market conditions, regulations, fuel prices, and capital costs. Pursuant to Act 57–2014, the PREB is responsible for establishing and implementing regulations to ensure the capacity, reliability, safety, and efficiency of Puerto Rico's electrical system. This includes evaluating and approving the IRP, overseeing and ensuring compliance, and implementation.

On August 24, 2020, the PREB issued the IRP Final Order, based on the IRP submitted by PREPA. The Approved IRP included a Modified Preferred Resource Plan (Action Plan) considering specific power generation capacity additions and retirements. In the Approved IRP, the PREB established a schedule for minimum quantities of renewable resources, and battery energy storage resources to be procured through the Requests for Proposals processes, to be completed by June 2023. The Approved IRP also directed PREPA to submit a renewable resource and battery energy storage procurement plan. Specifically, the Approved IRP included a program for six tranches of procurement for renewable energy and battery storage resources that would add 3,750 MW of renewable sources to the energy grid. Based on the procurement of renewable resources to be integrated in the Puerto Rico Electric System, the Approved IRP authorized the retirement of PREPA's older, oil-fired steam resources, combined cycle turbines and peaking units for the period between 2021 and 2025.

The PREB provided an updated schedule for emission unit retirements and the integration of new renewable energy and battery storage resources via letter to the PRDNER on October 18, 2022, which was updated on November 15, 2022.[9] The IRP was scheduled to be revised and submitted to the PREB by June 28, 2024 by LUMA, the current operator of Puerto Rico's electrical power transmission and distribution system.[10] However, on June 7, 2024, LUMA requested that the PREB suspend the June 28 deadline, due to modeling delays associated with its base case scenario.[11] LUMA requested that the 2024 IRP be filed on May 16, 2025, with an analysis of four supplemental scenarios proposed to be filed on June 19, 2025.[12] On August 20, 2024, the PREB denied LUMA's request for an extension, until May 16, 2025, for a full IRP.

The PREB ordered LUMA to file the Preferred Resource Plan and ''salient components'' of the base case and alternative case scenarios by no later than November 29, 2024, and ordered LUMA to file certain transmission and distribution related requirements by no later than February 28, 2025.[13]

II. What is the EPA proposing?

The EPA is proposing several actions in this rulemaking. First, under CAA section 179(c), the EPA is proposing to determine that the San Juan and Guayama-Salinas SO_2 NAAs failed to attain the 2010 1-hour primary SO_2 standard by the statutory attainment date of April 9, 2023. The EPA's proposed Finding of Failure to Attain (FFA) determination is based on a weight-of-evidence analysis that demonstrates that the San Juan and Guayama-Salinas areas failed to attain the standard by the mandatory attainment date. The EPA's reasoning for this decision is described in Section III of the preamble.

Second, the EPA is proposing to approve certain elements of Puerto Rico's SO_2 plan, which was submitted to demonstrate how the San Juan and Guayama-Salinas areas would meet the 2010 1-hour SO_2 standard in the San Juan and Guayama-Salinas NAAs. The

[6] The RCAP amendments were approved by the Secretary of the PRDNER on November 21, 2022, and became effective on the same day.

[7] Final Resolution and Order on the Puerto Rico Electric Power Authority's Integrated Resource Plan, *Review of the Puerto Rico Electric Power Authority Integrated Resource Plan,* Case No. CEPR–AP–2018–0001, August 24, 2020 (''Approved IRP''), *available at https://energia.pr.gov/wp-content/uploads/sites/7/2020/08/AP20180001-IRP-Final-Resolution-and-Order.pdf.*

[8] *See* https://energia.pr.gov/wp-content/uploads/sites/7/2015/10/AN-ACT-57-20141.pdf.

[9] The October 18, 2022 and November 15, 2022 letters are available in the docket of this rulemaking.

[10] On June 22, 2020, LUMA entered into an operation and maintenance agreement under which it will operate the transmission and distribution system previously operated by PREPA. PREPA maintains ownership over the transmission and distribution system. *See https://www.p3.pr.gov/wp-content/uploads/2020/06/executed-consolidated-om-agreement-td.pdf.*

[11] *See* LUMA's Motion in Compliance with Resolution and Order of June 18, 2024, and Submitting Second Revised IRP Filing Schedule, dated June 28, 2024, at ¶ 18, *available at https://energia.pr.gov/wp-content/uploads/sites/7/2024/07/20240628-AP20230004-Motion-in-Compliance-with-Resolution-and-Order-of-June-18-2024-and-Submitting-Second-Revised-IRP-Filing-Schedule.pdf.*

[12] *See id.* at ¶ 27.

[13] *See* PREB Resolution and Order, dated August 20, 2024, *available at https://energia.pr.gov/wp-content/uploads/sites/7/2024/08/20240820-AP20230004-Resolution-and-Order.pdf.*

EPA outlines the requirements for nonattainment plans under CAA section 172(c), and reviews Puerto Rico's plan against these requirements in Sections IV, V and VI of this preamble.

Although Puerto Rico submitted its plan to satisfy CAA section 172(c) requirements, the EPA is proposing to approve only specific elements at this time for compliance with the CAA. The elements being proposed for approval include Puerto Rico's NNSR program and base year emissions inventory. The EPA is not proposing action on other elements of the plan, such as the attainment demonstration, RFP, RACM/RACT, emission limitation as necessary to provide for NAAQS attainment, and contingency measures. The EPA will address whether Puerto Rico is meeting its statutory obligations for those elements in a future rulemaking. Finally, amendments to the RCAP, which Puerto Rico submitted with the plan, are being proposed for approval, in part, and conditional approval, in part, based on providing SIP-strengthening.

III. Proposed Determination of Failure To Attain and the Associated Consequences

A. Applicable Statutory and Regulatory Provisions

Section 179(c)(1) of the CAA requires the EPA to determine whether a NAA attained an applicable standard by the applicable attainment date based on the area's air quality as of the attainment date. In determining the attainment status of SO_2 NAAs, the EPA may consider ambient monitoring data, air quality dispersion modeling, and/or a demonstration that the control strategy in the SIP has been fully implemented.[14]

Under the EPA's regulations in 40 CFR 50.17, and in accordance with 40 CFR part 50 Appendix T, the 2010 1-hour annual SO_2 standard is met when the design value is less than or equal to 75 ppb. Design values are calculated by computing the three-year average of the annual 99th percentile daily maximum 1-hour average concentrations.[15] An SO_2 1-hour primary standard design value is valid if it encompasses three consecutive calendar years of complete data. A year is considered complete when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days are complete. A sampling day is considered complete if 75 percent of the hourly concentration values are reported; this includes data affected by exceptional events that have been approved for exclusion by the Administrator.[16]

A determination of whether an area's air quality meets applicable standards is generally based upon the most recent three calendar years of complete, quality-assured data gathered at established state and local air monitoring stations (SLAMS) in a nonattainment area and entered into the EPA's Air Quality System (AQS) database.[17] Data from ambient air monitors operated by state and local agencies in compliance with the EPA monitoring requirements must be submitted to AQS.[18] Monitoring agencies annually certify that these data are accurate to the best of their knowledge.[19] All certified SO_2 air monitoring data are used to calculate design values that are used to determine the area's air quality status in accordance with 40 CFR part 50, Appendix T.

In addition to utilizing ambient monitoring data to make determinations of attainment by the attainment date, the EPA considers air quality dispersion modeling and/or a demonstration that the control strategy in the SIP has been fully implemented. With regard to the use of monitoring data for such determinations, EPA's 2014 Nonattainment SO_2 Guidance[20] specifically notes that if the EPA determines the air quality monitors located in the affected area are located in the area of maximum concentration, the EPA may be able to use the data from these monitors to make the determination of attainment without the use of air quality modeling data.[21] In this case, there are SO_2 monitors within the San Juan and Guayama-Salinas NAAs; however, there is no evidence indicating that the monitors are located within the areas of expected maximum concentration.

Due to insufficient monitoring data collected for all three years in the 2020–2022 data period for the SO_2 monitors, the EPA is unable to determine valid monitor-based 2020–2022 design values. As a result, the EPA has considered available air modeling data submitted by the PRDNER with its November 22, 2022, SIP revision, as well as the designation modeling the EPA used to initially determine that the areas were in nonattainment, to assess whether the areas attained by the attainment date.

According to the EPA's Modeling Technical Assistance Document (TAD),[22] for the purpose of modeling to characterize air quality for use in designations, the recommended approach is to use the most recent 3 years of actual emissions data and concurrent meteorological data. However, the TAD also indicates that it would be acceptable to use allowable emissions in the form of the most recently permitted (referred to as PTE or allowable) emissions rate that is federally enforceable and effective. When relying on a modeling demonstration based on allowable emissions for purposes of determining attainment by the attainment date, the EPA looks to whether the emission limit or limits were adopted and whether the relevant source or sources were complying with those modeled limits prior to the attainment date. That is, when determining attainment by the attainment date using air quality modeling of allowable emissions, the EPA looks to whether the state/commonwealth has demonstrated that the control strategy in the SIP has been fully implemented. This is necessary because a modeling demonstration based on allowable emissions is not itself sufficient since, without the supporting emissions information reflected in the control strategy, there would be no way to confirm that the actual emissions were below the modeled limits within the period under review.

The EPA would like to clarify that a significant amount of information is required for the EPA to accurately conduct its own air quality dispersion modeling to determine attainment by the attainment date for these two NAAs. This information is not readily available, and the limited data currently accessible to the Agency raises concerns about the reliability of new modeling. Specifically, the EPA does not have access to fuel use data or concurrent meteorological data and continuous emissions monitoring systems (CEMS) data from the stacks at the PREPA facilities (the EPA also believes that CEMS provide acceptable historical

[14] EPA, Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions (April 2014) (''2014 SO_2 Guidance''), 49.

[15] As defined in 40 CFR part 50, Appendix T section 1(c), daily maximum 1-hour values refer to the maximum 1-hour SO_2 concentration values measured from midnight to midnight that are used in the NAAQS computations.

[16] *See* 40 CFR part 50, Appendix T sections 1(c), 3(b), 4(c), and 5(a).

[17] AQS is the EPA's repository of ambient air quality data.

[18] 40 CFR 58.16.

[19] 40 CFR 58.15.

[20] EPA, Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions (April 2014) (''2014 SO_2 Guidance''), p.49, *available at https://www.epa.gov/sites/default/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

[21] *Id.,* p.50.

[22] *See https://www.epa.gov/so2-pollution/technical-assistance-documents-implementing-2010-sulfur-dioxide-standard.*

emissions information). As a result, it is the EPA's position that any air quality dispersion modeling the EPA would perform for the purpose of this determination would not be representative of air quality within the areas. Thus, the EPA is not performing air quality dispersion modeling to support its determination that the areas have failed to attain by their attainment dates. The EPA will instead consider the modeling conducted and provided by the PRDNER in its November 22, 2022, SIP submission, which shows that controls that PRDNER anticipates will lead to attainment were not in place prior to the areas' attainment dates.

As noted earlier in this section, the EPA may also consider whether the state (or commonwealth) has demonstrated that the control strategy in the SIP has been fully implemented. That said, the PRDNER's control strategy has not been implemented, nor has it been approved by the EPA. As a result, the EPA cannot determine that the subject sources have achieved compliance with either the PRDNER's control strategy as submitted to the EPA, or a SIP-approved strategy. To address this, the EPA is proposing a determination that the areas did not attain by their attainment date which is based on a technical analysis of various evidence available (*i.e.,* weight-of-evidence analysis): including the control strategy timeline Puerto Rico identified and adopted into its RCAP, which was determined in coordination with the air quality dispersion modeling submitted within its November 22, 2022 SIP revision as well as the EPA's designation modeling; Puerto Rico's failure to implement the control strategy in a timely manner thus far; and the EPA's review of annual facility-wide emissions data from January 2020 through December 2022 for the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities located within the NAAs—as described in Sections III.B and III.C of this notice. As noted, the determination of whether the monitors are located in the area of maximum concentration is not needed here, because a demonstration is not being made that the NAAs have attained the 2010 SO_2 NAAQS by the April 9, 2023 attainment date.

B. San Juan and Guayama-Salinas SO_2 Monitoring Networks and Considerations

Section 110(a)(2)(B)(i) of the CAA requires states to establish and operate air monitoring networks to compile data on ambient air quality for all criteria pollutants. The EPA's monitoring requirements are specified by regulation in 40 CFR part 58. These requirements are applicable to state, and where delegated, local air monitoring agencies that operate criteria pollutant monitors. The regulations in 40 CFR part 58 establish specific requirements for operating air quality surveillance networks to measure ambient concentrations of SO_2, including requirements for measurement methods, network design, quality assurance procedures, and the minimum number of monitoring sites designated as SLAMS.

In sections 4.4 and 4.5 of Appendix D to 40 CFR part 58, the EPA specifies the minimum requirements for SO_2 monitoring sites to be classified as SLAMS. SLAMS produce data that are eligible for comparison with the NAAQS, and therefore, the monitor must be an approved federal reference method (FRM), federal equivalent method (FEM), or approved regional method (ARM) monitor, pursuant to section 2 of Appendix C to 40 CFR part 58. Additionally, Appendix A to 40 CFR part 58 specifies quality assurance requirements for SLAMS monitors.

During the 2020–2022 data period, the PRDNER operated three SO_2 SLAMS in the San Juan and Guayama-Salinas SO_2 NAAs. In the San Juan NAA, SLAMS monitors are in operation at Bayamón (AQS Site ID 72–021–0010, Avenue Central Correcional) and at Cataño (AQS Site ID 72–033–0004, Northwest Street at the 11 Final Street, Las Vegas). In the Guayama-Salinas NAA, a SLAMS monitor is located at Guayama (AQS Site ID 72–057–0011, Road #3 Cuartel Vehiculos Hurtados).

C. SO_2 Data Considerations and the EPA's Proposed Determination

1. SO_2 Monitor Data

As discussed in Section I.B of this preamble, the applicable attainment date for the San Juan and Guayama-Salinas areas was April 9, 2023. In accordance with Appendix T to 40 CFR part 50, determinations of SO_2 NAAQS compliance are based on three consecutive calendar years of data. To determine the air quality as of the attainment date in the nonattainment area, the EPA reviewed the available data collected during the three calendar years immediately preceding the attainment date for the San Juan and Guayama-Salinas areas (*i.e.,* January 1, 2020 through December 31, 2022), as well as SO_2 emissions data that resulted from the burning of fossil fuels for electricity generation at the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities.

The available annual 99th percentile daily maximum 1-hour average SO_2 data at each monitoring site within the San Juan and Guayama-Salinas areas for the 2020–2022 period are presented in Tables 1 and 2 below. Moreover, the 1-hour SO_2 design values at the Bayamón, Cataño, and Guayama SO_2 monitoring sites for the 2020–2022 period are shown in Tables 1 and 2 below.[23]

TABLE 1—2020–2022 SO_2 MONITOR DATA FOR THE SAN JUAN AREA[24]

SLAMS monitor	AQS site ID	2020 Annual 99th percentile daily maximum 1-hour average (ppb)	2021 Annual 99th percentile daily maximum 1-hour average (ppb)	2022 Annual 99th percentile daily maximum 1-hour average (ppb)	2020–2022 SO_2 design value (ppb)
Bayamón	72–021–0010	*35.4	9.8	10.8	Not Valid (NV).
Cataño	72–033–0004	*17.6	*18.2	*0.0	NV

[23] A design value is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. SO_2 design values at the Bayamón, Cataño, and Guayama SO_2 monitoring sites for the 2020–2022 period were obtained from the EPA's Air Quality Design Values web page. *See https://www.epa.gov/air-trends/air-quality-design-values#report.*

[24] Monitoring sites must meet the data completeness requirements listed in Appendix T to 40 CFR part 50 in order to have a valid design value. Annual 99th percentile daily maximum 1-hour averages with an asterisk (*) indicate that those values do not meet these completeness requirements.

TABLE 2—2020–2022 SO_2 MONITOR DATA FOR THE GUAYAMA-SALINAS AREA [25]

SLAMS monitor	AQS site ID	2020 Annual 99th percentile daily maximum 1-hour average (ppb)	2021 Annual 99th percentile daily maximum 1-hour average (ppb)	2022 Annual 99th percentile daily maximum 1-hour average (ppb)	2020–2022 SO_2 design value (ppb)
Guayama	72–057–0011	NV	*3.4	*3.4	NV

The attainment date for the areas was April 9, 2023. In order for the EPA to determine that the areas attained by the April 9, 2023 attainment date based solely on air quality monitoring data, the design value based upon complete, quality-assured monitored air quality data from three consecutive years (2020–2022) at each eligible monitoring site must be equal to or less than 75 ppb for the 1-hour standard, and air quality modeling would need to show that there was an air quality monitor located in the area of maximum concentration.

The EPA has not been provided with nor is the EPA aware of information indicating that these three monitors are located within the area of maximum concentration. Therefore, this information alone is insufficient to support a determination of whether the NAAs attained the 2010 SO_2 NAAQS by the attainment date.

2. Modeling Data and Control Strategy Timeline

The EPA's Modeling TAD notes that for area designations under the 2010 SO_2 NAAQS, the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD) modeling system should be used, unless use of an alternative model can be justified. As previously stated, the EPA did not conduct its own air dispersion modeling demonstration with AERMOD and is instead relying on the air dispersion modeling conducted by the PRDNER, as provided within its attainment demonstration submitted to the EPA on November 22, 2022.

The PRDNER's attainment demonstration utilized version 21112 of AERMOD, with default options. Version 21112 of AERMOD was the most recent version at the time the attainment demonstration modeling was conducted. Further information pertaining to the PRDNER's modeling, such as the area of analysis, source characterization, emissions, meteorology and surface characteristics, geography and terrain, and background concentrations, can be found in Section V, ''Review of Modeled Attainment Demonstration,'' of this proposed rulemaking. For purposes of the FFA, the EPA finds the PRDNER's modeling was conducted in a technically correct manner, consistent with the EPA's modeling guidance.

The control strategy the PRDNER identified and modeled to provide for attainment of the standard relies primarily on the retirement of PREPA electricity generation units and is based on the integration of new renewable energy projects (as determined by PREB). However, this control strategy was not scheduled to start until February 2023, specifically involving the transition of several units to ultra-low sulfur diesel fuel. Specifically, the retirement of PREPA units was scheduled to occur in phases, from June 30, 2023, through December 31, 2025, at PREPA San Juan and PREPA Palo Seco, and from December 31, 2025, through December 31, 2029, at PREPA Aguirre.

The projected attainment dates identified by the PRDNER, via its modeling of the control strategy were December 31, 2025, for the San Juan area and December 31, 2029, for the Guayama-Salinas Area. Although these attainment dates for the control strategy were identified as being as expeditious as practicable given the integration of renewable energy sources, they provide for attainment of the standard after the CAA mandatory attainment date of April 9, 2023. Thus, based on the PRDNER's own modeling of its control strategy, and unless that control strategy was implemented in a more expeditious manner than originally planned, the control strategy did not provide for attainment by the statutory deadline.

Additionally, the EPA notes that the Round 3 designation modeling [26] showed modeled concentrations well in exceedance of the standard within the San Juan and Guayama-Salinas areas, therefore requiring significant measures to be implemented to reduce such concentrations. Since it is the EPA's understanding that the emissions controls necessary to achieve attainment of the standard were not implemented (as further discussed in Section III.C.3 of this notice), the EPA proposes to find that attainment of the standard was not provided by the mandatory attainment date.

3. Failure To Implement the Control Strategy

As of the time of signature of this proposed rulemaking, the EPA has no evidence indicating that the control strategy identified by the PRDNER and adopted within the RCAP in support of its November 22, 2022 SIP submission has in fact been implemented. Instead, available evidence indicates that the strategy has not yet been implemented, and that therefore, emissions reductions expected under the strategy have not yet been achieved. Although not federally SIP-approved, this absence of strategy implementation is considered as part of EPA's weight of evidence analysis.

The control strategy under the PRDNER's SIP submission is based on the retirement of emission units and the implementation of emission limits based on the use of ULSD or LNG for units that will continue to operate and generate electricity at the PREPA San Juan, PREPA Aguirre, and PREPA Palo Seco facilities. As previously noted, the control strategy was to begin in February 2023, specifically involving the transition of several units to ULSD. The PREPA unit retirements were to occur in phases—from June 30, 2023, through December 31, 2025, at PREPA San Juan and PREPA Palo Seco, and from December 31, 2025, through December 31, 2029, at PREPA Aguirre.

At PREPA Palo Seco and PREPA Palo San Juan, several boilers were required

[25] Monitoring sites must meet the data completeness requirements listed in Appendix T to 40 CFR part 50 in order to have a valid design value. Annual 99th percentile daily maximum 1-hour averages with an asterisk (*) indicate that those values do not meet these completeness requirements.

[26] The San Juan and Guayama-Salinas areas were designated nonattainment based on Puerto Rico's modeling, which indicated that the highest predicted 99th percentile daily maximum 1-hour concentration (*i.e.,* modeled concentration) within the chosen modeling domain to be 422 $\mu g/m^3$ (equivalent to 161 ppb) for the San Juan area and 252 $\mu g/m^3$ (equivalent to 96 ppb) for the Guayama-Salinas area. These modeled concentrations, which are above the NAAQS level of 196.4 $\mu g/m^3$ (equivalent to the 2010 SO_2 NAAQS of 75 ppb reflecting a 2.619 $\mu g/m^3$ conversion factor), were based on actual emissions from the facilities. The TSD for the Round 3 designations is found within the docket for this rulemaking.

to retire by June 30, 2023. Specifically, at PREPA Palo Seco, Boiler 1, Boiler 2, Power Block 2–2, Power Block 3–1, and Power Block 3–2 had a retirement compliance date of June 30, 2023. At PREPA San Juan, Boiler 7, Boiler 8, and Boiler 10 were required to retire by June 30, 2023. Additional retirements are required at PREPA Palo Seco by December 31, 2025 (*i.e.,* Boiler 4), and PREPA San Juan by December 31, 2024 (*i.e.,* Boiler 9). PREPA Aguirre units are scheduled to retire beginning December 31, 2025, through December 31, 2029.[27]

A more detailed discussion of the retirement of emission units and the implementation of emission limits for units that will remain in operation at the PREPA San Juan, PREPA Aguirre, and PREPA Palo Seco facilities can be found under Section V, ''Review of Modeled Attainment Demonstration,'' subsection G, of this proposed rulemaking.

As mentioned previously in Section I, ''Background,'' of this notice, the compliance strategy for Puerto Rico's SIP was developed based on the most recent IRP approved by the PREB in 2020, as well as additional updates provided by the PREB in 2022, which considered emission unit retirements within the San Juan and Guayama-Salinas NAAs following the integration of renewable energy sources and battery storage resources. It is the EPA's understanding that the integration of renewable energy sources has been delayed, including the deployment of solar projects under Tranche 1, due to renegotiations and legal challenges pertaining to the use of the land identified for development.[28] Tranche 1 was expected to provide at least 1,000 MW solar PV (or energy-equivalent other renewables) and at least 500 MW (2,000 MWh or equivalent) battery energy storage; [29] however, its delayed implementation has impacted the PREPA's ability to retire units in accordance with the submitted SIP control strategy since other means of providing electricity to citizens of the areas is not sufficient.

The transition to renewable energy, which will allow the retirement of units at PREPA San Juan, PREPA Aguirre, and PREPA Palo Seco, has an uncertain timeline. As indicated previously, the IRP was scheduled to be revised and submitted to the PREB in June 2024 by LUMA, but that process has been delayed to November 29, 2024. The EPA anticipates that a new IRP [30] will provide an updated schedule for emission unit retirements and the integration of renewable energy. Moreover, under the current IRP,[31] PREPA will retire units ''based on the installation schedule and location of new peaking generation, new solar PV, and energy storage resources to address overall and local resource adequacy.'' Accordingly, the retirement sequence of the existing PREPA units is contingent on the timing, amount, and location of replacement generation, which will further complicate Puerto Rico's ability to ensure that retirements of emission units occur as provided within its submitted control strategy timeline.

The delay in implementing the submitted control strategy and the extended timeline and uncertainty for transitioning to renewable energy projects serve as additional evidence that Puerto Rico has not met, and has fallen well behind, the statutorily required attainment date of April 9, 2023. Moreover, given that the modeling submitted by PRDNER did not anticipate the areas would attain the NAAQS until well beyond the statutory April 9, 2023 attainment date, the EPA proposes to find that attainment of the standard did not occur by the statutory attainment date of April 9, 2023.

4. SO_2 Emissions Data

The EPA has compiled information from its Emission Inventory System (EIS) that details total SO_2 emissions from 2020–2022 across the three PREPA facilities.[32] The Emissions Inventory System (EIS) Gateway was developed to provide registered EPA, state, local, and Tribal users with access to emissions inventory data.[33] The EIS helps the EPA to build the National Emissions Inventory (NEI). Additionally, the EIS Gateway allows users to manage their profile information to add, view, and edit facility inventory information for their agency; extract data by running reports; and access reporting codes. Hourly and monthly data are not available in the EIS Gateway, so the EPA will utilize annual emissions from 2020–2022 at the three PREPA facilities within the discussion regarding annual emission trends in the NAAs since the designations. That information is as follows:

TABLE 3—FACILITY-WIDE SO_2 EMISSIONS OF POINT SOURCES IN THE NAAS FROM 2020–2022 [34]

Stationary point source	Nonattainment area	2020 SO_2 emissions (tons per year)	2021 SO_2 emissions (tons per year)	2022 SO_2 emissions (tons per year)
PREPA San Juan	San Juan	3,257	1,369	2,740
PREPA Palo Seco	San Juan	5,272	4,322	4,488
PREPA Aguirre	Guayama-Salinas	8,829	8,164	5,434

[34] 2021 and 2022 data are preliminary and will be finalized upon release of the 2023 NEI.

The PREPA San Juan facility emitted 3,257 tons of SO_2 in 2020, 1,369 tons of SO_2 in 2021, and 2,740 tons of SO_2 in 2022. The PREPA Palo Seco facility emitted 5,272 tons of SO_2 in 2020, 4,322 tons of SO_2 in 2021, and 4,488 tons of SO_2 in 2022. Finally, the PREPA Aguirre facility emitted 8,829 tons of SO_2 in 2020, 8,164 tons of SO_2 in 2021, and 5,434 tons of SO_2 in 2022.

[27] Refer to Table 7. PREPA Aguirre SO_2 Emission Limits under Section V, ''Review of Modeled Attainment Demonstration'' of this rulemaking for more detailed information regarding the specific units scheduled to retire from December 31, 2025, through December 31, 2029.

[28] *See* Section 6.2, ''Inputs and Assumptions'' of the ''Puerto Rico Grid Resilience and Transitions to 100% Renewable Energy Study (PR100)'' provided within the docket for this rulemaking.

[29] *See* ¶ 860 of the ''Final Resolution and Order on the PREPA's IRP'' included within the docket for this rulemaking.

[30] Due to the complexity and coordination required between stakeholders such as the PREPA, the PREB, and LUMA, it is anticipated that a revised IRP will not be finalized until late 2026 or 2027 at this point in time.

[31] *See* ¶ 870–873 of the ''Final Resolution and Order on the PREPA's IRP.''

[32] 2021 and 2022 data are preliminary and will be finalized upon release of the 2023 NEI. The 2023 NEI inventory year is in progress and will not be published until March 2026. *See https://www.epa.gov/air-emissions-inventories/2023-national-emissions-inventory-nei-documentation.*

[33] For more information on EIS, refer to *https://www.epa.gov/air-emissions-inventories/emissions-inventory-system-eis-gateway.*

TABLE 4—FACILITY-WIDE SO_2 EMISSIONS OF POINT SOURCES IN THE NAAS FROM 2013–2015

Stationary point source	Nonattainment area	2013 SO_2 emissions (tons per year)	2014 SO_2 emissions (tons per year)	2015 SO_2 emissions (tons per year)
PREPA San Juan	San Juan	5,307	5,135	6,063
PREPA Palo Seco	San Juan	5,700	3,128	2,979
PREPA Aguirre	Guayama-Salinas	9,640	9,261	9,585

Notably, as provided within the Round 3 designations,[35] Table 4 indicates that SO_2 emissions were: (1) 5,307 tons in 2013, 5,135 tons in 2014, and 6,063 tons in 2015 for PREPA San Juan; (2) 5,700 tons in 2013, 3,128 tons in 2014, and 2,979 tons in 2015 for PREPA Palo Seco; and (3) 9,640 tons in 2013, 9,261 tons in 2014, and 9,585 tons in 2015 for the PREPA Aguirre facility.

While there has been a decrease in emissions at the PREPA San Juan and PREPA Aguirre facilities, it is important to note that the thousands of tons of SO_2 emitted by these facilities from 2020 to 2022 are significant. Notably, although emissions at PREPA Palo Seco appear to have decreased from 2013 through 2015, emissions increased at the facility from 2015 to 2020. It is the EPA's understanding, based on the air quality dispersion modeling the PRDNER provided in its attainment modeling for its SO_2 plan, that SO_2 emissions from the three PREPA facilities would need to significantly decrease in order to provide for attainment of the SO_2 standard. The PRDNER projected that SO_2 emissions would be 43 tons per year (tpy) at PREPA San Juan and 12 tpy at PREPA Palo Seco by the PRDNER-projected attainment date of December 31, 2025, as well as 4 tpy at PREPA Aguirre by the PRDNER-projected attainment date of December 31, 2029.[36] In contrast, the SO_2 emissions listed in Table 3 are significantly higher than the emissions for which the PRDNER modeled to provide attainment. Thus, since the EPA was unable to conduct its own additional air quality dispersion modeling, the EPA has no evidence indicating that the SO_2 emissions at the facilities from 2020–2022 would provide for attainment of the 2010 1-hour primary SO_2 NAAQS by the statutory attainment date.

The EPA's emissions assessment focused specifically on the three PREPA sources: PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre. These sources were significantly larger in terms of emissions compared to smaller and more distant sources like Bacardi, Edelcar, and Applied Energy System (AES). As a result, the smaller emissions from these distant sources were dwarfed by the impact of the explicitly modeled PREPA sources.[37] For example, AES emitted 245 tons of SO_2 in 2014. The EPA's conclusion was based on this consideration, ensuring that the emissions assessment accurately reflected the most relevant contributors to air quality in the vicinity.

Consequently, the EPA proposes to find that emissions from the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities continue to be significant and provide additional evidence that the San Juan and Guayama-Salinas areas have not attained the 2010 1-hour primary SO_2 NAAQS by the statutory attainment date of April 9, 2023.

5. The Weight-of-Evidence Analysis Conclusions and the EPA's Proposed Determination

The determination of failure to attain for the San Juan and Guayama-Salinas NAAs is based on a control strategy timeline that does not provide for attainment by the statutorily required attainment date, Puerto Rico's failure to implement its adopted control strategy in a timely manner, and the EPA's review of annual facility-wide emissions data from January 2020 through December 2022 for the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities.

As discussed in this notice, Puerto Rico's control strategy is deficient in providing for attainment by the mandatory attainment date. It provided for attainment after the statutory date and it failed to practicably account for the feasibility of retiring relevant emission units, resulting in its failure to be timely implemented. The EPA's assessment of the air quality dispersion modeling that the PRDNER provided in its November 22, 2022 SIP submittal provides further support for this determination. Moreover, due to its inability to obtain valid design values from SO_2 monitors in the San Juan and Guayama-Salinas areas, the EPA did not utilize monitoring data as the basis for this determination. The EPA obtained facility-wide SO_2 emissions from 2020–2022 at PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre. This emissions data demonstrates that emissions from the three PREPA facilities continue to be significant and there is no evidence that they provide for attainment of the standard.

The EPA proposes to find that this weight-of-evidence analysis is sufficient to demonstrate that the San Juan and Guayama-Salinas area failed to attain the standard by the mandatory attainment date. The EPA therefore proposes to find under CAA section 179(c)(1) that the San Juan and Guayama-Salinas NAAs failed to attain the 1-hour SO_2 NAAQS by the required attainment date of April 9, 2023.

D. Consequences for SO_2 NAAs Failing To Attain Standards by Attainment Date

The consequences for SO_2 NAAs failing to attain the standards by the applicable attainment date are set forth in CAA section 179(d). Under section 179(d), a state must submit a SIP revision for the area meeting the requirements of CAA sections 110 and 172, the latter of which requires, among other elements, a demonstration of attainment, an NNSR program, the base year emissions inventory, the requirements for meeting RFP, RACM/RACT, and contingency measures. In addition, under CAA section 179(d)(2), the SIP revision must include such additional measures as the EPA may reasonably prescribe, including all

[35] Modeling of the 2013–2015 emissions data, which showed that the San Juan and Guayama-Salinas areas did not meet the 2010 SO_2 NAAQS, was a basis for the nonattainment designation.

[36] The PRDNER's modeling results under the Attainment Demonstration provided in its November 22, 2022 SIP submission indicated that these emissions would result in a modeled concentration of 47.518 μg/m^3 for the San Juan NAA and 47.191 μg/m^3 for the Guayama-Salinas NAA. These concentrations are below what would be required for the NAAs to attain the 2010 SO_2 standard. For additional information on the projected emissions at the PREPA facilities, *see* Table 11, ''Projected Stationary Point Source SO_2 Emissions for 2019–2029'' under Section VI, subsection A, ''Emissions Inventory,'' within this proposed rulemaking.

[37] As discussed within Section V.B., ''Area of Analysis,'' within this notice, based on the magnitude of emissions and distance relative to the NAAs, the EPA concluded that the smaller and more distant sources were adequately represented in the monitored ambient background concentrations. The EPA concluded that these sources were not expected to have their maximum impacts in the vicinity of PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre.

measures that can be feasibly implemented in the area, in light of technological achievability, costs, and any non-air quality and other air quality-related health and environmental impacts.

In this case, the primary sources of SO_2 emissions in the San Juan and Guayama-Salinas NAAs are the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities. The EPA anticipates that the PRDNER will collect relevant information on the control measures necessary to achieve attainment by the required attainment date, as part of its development of the SIP revision triggered by a final FFA. The state (or commonwealth) is required to submit the SIP revision within one year after the EPA publishes a final action in the **Federal Register** determining that the NAA failed to attain the SO_2 NAAQS.

With this proposed rulemaking, the EPA is also proposing to approve certain elements of the 2010 SO_2 attainment plans for the San Juan and Guayama-Salinas NAAs, as submitted on November 22, 2022, for compliance with the CAA and for SIP-strengthening purposes. Specifically, the EPA is proposing to approve Puerto Rico's NNSR program and the base year emissions inventory for compliance with the CAA; as well as proposing to approve, in part, and conditionally approve, in part, amendments to Puerto Rico's RCAP for SIP-strengthening purposes. The EPA will not act on Puerto Rico's previously submitted demonstration of attainment, RACM/RACT, RFP, emission limitations as necessary to provide for attainment, and contingency measures, since these elements will be addressed in the subsequent submittal as a result of the FFA, should it become final.

Under CAA sections 179(d)(3) and 172(a)(2), the new attainment date for each NAA is the date by which attainment can be achieved as expeditiously as practicable, but no later than five years after the EPA publishes a final action in the **Federal Register** determining that the NAA failed to attain the SO_2 NAAQS by the applicable attainment date.

IV. Requirements for SO_2 Nonattainment Area Plans

Nonattainment plans for SO_2 must meet the applicable requirements of the CAA, specifically CAA sections 110, 172, 191, and 192. The EPA's regulations governing nonattainment SIP submissions are set forth in 40 CFR part 51, with specific procedural requirements and control strategy requirements codified at subparts F and G, respectively. Soon after Congress enacted the 1990 Amendments to the CAA, the EPA issued comprehensive guidance on SIP revisions in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (''General Preamble'').[38] Among other things, the General Preamble addressed SO_2 SIP submissions and fundamental principles for SIP control strategies.[39] On April 23, 2014, the EPA issued recommended guidance for meeting the statutory requirements in SO_2 SIP submissions in a document entitled, ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions'' (''2014 SO_2 Guidance'').[40]

In the 2014 SO_2 Guidance, the EPA described the statutory requirements of CAA section 172(c) for a complete nonattainment plan, including: an accurate emissions inventory of current emissions for all sources of SO_2 within the NAA; an attainment demonstration; a demonstration of RFP; implementation of RACM (including RACT); new source review; enforceable emission limitations and control measures; and adequate contingency measures for the affected area.

For the EPA to fully approve a SIP revision which meets the requirements of CAA sections 110, 172, 191, and 192, and the EPA's regulations at 40 CFR part 51, the plan for an affected area must demonstrate to the EPA's satisfaction that each of the aforementioned requirements has been met. Under CAA section 110(l), the EPA may not approve a plan that would interfere with any applicable requirement concerning NAAQS attainment and RFP, or any other applicable requirement. Under CAA section 193, no requirement in effect (or required to be adopted by an order, settlement, agreement, or plan in effect before November 15, 1990) within any area that is nonattainment for any of the NAAQS may be modified in any manner unless it ensures equivalent or greater emission reductions of such air pollutant.

Sections 172(c)(1) and 172(c)(6) of the CAA direct states and territories with areas designated as nonattainment to demonstrate that the submitted plan, and the emissions limitations and control measures in it, provide for attainment of the NAAQS. 40 CFR part 51, subpart G further delineates the control strategy requirements that plans must meet, and the EPA has long required that all SIPs and control strategies reflect four fundamental principles of quantification, enforceability, replicability, and accountability.[41] SO_2 nonattainment plans must consist of two components: (1) emission limits and other control measures that ensure implementation of permanent, enforceable, and necessary emission controls, and (2) a modeling analysis that meets the requirements of 40 CFR part 51, Appendix W and demonstrates that these emission limits and control measures provide for timely attainment of the primary SO_2 NAAQS as expeditiously as practicable, but no later than the attainment date for the affected area. In cases where the necessary emission limits have not previously been made a part of the state's SIP or have not otherwise become federally enforceable, the plan must include the necessary enforceable limits in an adopted form suitable for incorporation into the SIP in order for the plan to be approved by the EPA. In all cases, the emission limits and control measures must be accompanied by appropriate methods and conditions to determine compliance with the respective emission limits and control measures and must be quantifiable (*i.e.,* a specific amount of emission reduction can be ascribed to the measures), fully enforceable (*i.e.,* specifying clear, unambiguous, and measurable requirements for which compliance can be practicably determined), replicable (*i.e.,* the procedures for determining compliance are sufficiently specific and objective so that two independent entities applying the procedures would obtain the same result), and accountable (*i.e.,* source-specific limits must be permanent and must reflect the assumptions used in the SIP demonstrations).

The EPA's 2014 SO_2 Guidance recommends that emission limits be expressed as short-term average limits not to exceed the averaging time for the applicable NAAQS that the limit is intended to help maintain (*e.g.,* addressing emissions averaged over one or three hours), but it also describes the option to utilize emission limits with longer averaging times of up to 30 days, so long as the state/commonwealth meets various suggested criteria.[42] The 2014 SO_2 Guidance recommends that, should states/territories and sources utilize longer averaging times (such as 30 days), the longer-term average limit should be set at an adjusted level that reflects a stringency comparable to the 1-hour average limit at the critical emission value shown to provide

[38] 57 FR 13498 (April 16, 1992).

[39] *Id.* at 13548–13549, 13567–13568.

[40] *See https://www.epa.gov/sites/default/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.*

[41] 57 FR at 13567–13568.

[42] 2014 SO_2 Guidance, at 22–39.

attainment. Additional discussion of EPA's rationale for approving longer-term average limits in selected cases has been provided in several notices of proposed rulemaking. Examples include the Pekin, Illinois area,[43] the Steubenville, Ohio-West Virginia area,[44] and the Central New Hampshire area.[45]

Preferred air quality models for use in regulatory applications are described in Appendix A of the EPA's ''Guideline on Air Quality Models'' (40 CFR part 51, Appendix W (''Appendix W'')).[46] In general, nonattainment SIP submissions must demonstrate the adequacy of the selected control strategy using the applicable air quality model designated in Appendix W.[47] However, where an air quality model specified in Appendix W is inappropriate for the particular application, the model may be modified or another model substituted, if the EPA approves of the modification or substitution.[48] In 2005, the EPA promulgated the American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD [49]) as the Agency's preferred near-field dispersion model for a wide range of regulatory applications addressing stationary sources (*e.g.,* in estimating SO_2 concentrations) in all types of terrain based on an extensive developmental and performance evaluation. Supplemental guidance on modeling for purposes of demonstrating attainment of the SO_2 standard is provided in Appendix A of the 2014 SO_2 Guidance.

Appendix A of the April 23, 2014, *Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions* provides extensive guidance on the modeling domain, the source inputs, assorted types of meteorological data, and background concentrations. Consistency with the recommendations in the 2014 SO_2 Guidance is generally necessary for the attainment demonstration to offer adequately reliable assurance that the plan provides for attainment.

As stated previously, attainment demonstrations for the 2010 1-hour primary SO_2 NAAQS must demonstrate future attainment and maintenance of the NAAQS in the entire area designated as nonattainment (*i.e.,* not just at the violating monitor) by using air quality dispersion modeling (see Appendix W) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a violation of the SO_2 NAAQS. For the short-term (*i.e.,* 1-hour) standard, the EPA believes that dispersion modeling, using allowable emissions and addressing stationary sources in the affected area (and in some cases those sources located outside the NAA that may affect attainment in the area) is technically appropriate. This approach is also efficient and effective in demonstrating attainment in NAAs because it takes into consideration combinations of meteorological and source operating conditions that may contribute to peak ground-level concentrations of SO_2.

The meteorological data used in the analysis should generally be processed with the most recent version of AERMET, which is the meteorological data preprocessor for AERMOD. Estimated concentrations should include ambient background concentrations, follow the form of the standard, and be calculated as described in the EPA's August 23, 2010 clarification memorandum.[50]

V. Review of Modeled Attainment Demonstration

The EPA is not at this time proposing action on the attainment demonstration submitted by the PRDNER that aims to provide for attainment of the 2010 SO_2 NAAQS. However, the following discussion addresses various features of the modeling that the PRDNER used in its submitted attainment demonstration for the San Juan and Guayama-Salinas NAAs. This discussion may be useful for the PRDNER as it continues its efforts. Additionally, the modeling was considered by the EPA in part of the weight-of-evidence analysis for the FFA. The EPA anticipates acting on an updated attainment demonstration in a future SIP submission.

A. Modeling Approach

The PRDNER's submitted attainment demonstration utilized the EPA's preferred model, version 21112 of AERMOD, with default options. Version 21112 of AERMOD was the most recent version at the time the attainment demonstration modeling was conducted; however, since then, version 23132 of AERMOD has become the regulatory model version. There were no updates from version 21112 to version 23132 that would significantly affect the SO_2 concentrations predicted here. Therefore, for its own purposes, the EPA does not consider the model selection to have been inappropriate. However, in a future SIP submission, the EPA expects that the PRDNER would use the version of the model that is current at the time of the analysis.

The PRDNER examined land use within three kilometers of the facilities in the two NAAs using the Auer technique, which is a technique in section 7.2.1.1 of Appendix W for establishing if an area should be modeled as either an urban or rural source. It was determined by PRDNER that San Juan should be modeled with urban dispersion characteristics and Guayama-Salinas should be modeled with rural dispersion characteristics. The EPA has reviewed the maps and images provided by the PRDNER and expects that it would be reasonable for the PRDNER to use these characteristics in future modeling.

B. Area of Analysis

The PRDNER accounted for SO_2 impacts in the modeling domain through the inclusion of measured background levels and explicitly modeled emission sources. In the San Juan NAA, the PRDNER included the largest SO_2 sources in the modeling–PREPA San Juan and PREPA Palo Seco. The impact from other sources of SO_2 in the San Juan NAA (contributions from Bacardi U.S.A., Inc. (200 PR–165 Cataño, 00962), Edelcar Inc. (CVMQ+FGQ, Calle B, Guaynabo, 00965), and other minor and distant sources), are included in the background monitored concentrations, which are added to the concentrations from the explicitly modeled sources. In the Guayama-Salinas NAA, the PRDNER included the largest SO_2 source in the modeling–PREPA Aguirre (State Road No. 3, Int. 705, Salinas, 00751). The impact from the other sources of SO_2 in the Guayama-Salinas NAA (*i.e.,* Applied Energy System (AES) Puerto Rico, LP (PR–3 Km. 142.0, Jobos Ward, Guayama, 00784) and other minor and distant sources) are included in the background monitored concentrations, which are also added to the concentration from the explicitly modeled sources.

The PRDNER modeled sources in the NAAs (*i.e.,* PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre) that could cause or contribute to a NAAQS violation. The impacts of emissions of SO_2 from smaller and distant sources are represented by background monitored concentrations (such as

[43] 82 FR 46434 (Oct. 5, 2017).

[44] 84 FR 29456 (June 24, 2019).

[45] 82 FR 45242 (Sept. 28, 2017).

[46] The EPA published revisions to Appendix W on January 17, 2017, 82 FR 5182.

[47] 40 CFR 51.112(a)(1).

[48] 40 CFR 51.112(a)(2); Appendix W, section 3.2.

[49] *See https://www.epa.gov/scram/air-quality-dispersion-modeling-preferred-and-recommended-models#aermod.*

[50] *See* ''Applicability of Appendix W Modeling Guidance for the 1-hr SO_2 National Ambient Air Quality Standard'' (August 23, 2010), *available at https://www3.epa.gov/ttn/naaqs/aqmguide/collection/cp2/20100823_page_1-hr_so2_naaqs_psd_program.pdf.*

Bacardi, Edelcar, and AES). These emissions were dwarfed by emissions from the three much larger PREPA sources and would not be expected to have their maximum impacts in the vicinity of the sources of interest.[51] However, they may have a smaller impact, which is measured at the ambient monitor and added to the modeled concentration. For instance, AES, which is situated in Jobos and within close proximity to PREPA Aguirre (*i.e.,* less than 5 kilometers away), is a relatively small source of SO_2 emissions when compared to the PREPA facility. In 2014,[52] AES emitted 245 tons of SO_2, whereas PREPA Aguirre released a significantly larger amount of 9,261 tons of SO_2 during the same period. Further, AES is approximately 8.5 kilometers east of PREPA Aguirre and less than 5 kilometers upwind of the Guayama background monitor. Thus, the AES concentration in the area of PREPA Aguirre is captured by the measured ambient background monitored concentration and added to PREPA Aguirre's maximum modeled concentration for a total air quality SO_2 concentration in the area.[53]

Based on the magnitude of emissions and distance relative to the NAAs, the EPA expects that the smaller and more distant sources would not have their maximum impacts in the vicinity of PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre. Accordingly, the EPA expects that in future modeling, those sources could be adequately represented in the monitored ambient background concentrations, and that the PRDNER's future attainment demonstration could account for them in this way. Additionally, the EPA believes that the background levels could reasonably account for other sources influencing air quality within the NAAs because data used to develop background levels include hours during which those sources may have impacted the monitors. However, the EPA acknowledges that conditions pertaining to ambient background level concentrations of these smaller and distant sources could be different in the future.

C. Receptor Grid

Within AERMOD, air quality concentration results are calculated at discrete locations identified by the user; these locations are called receptors. The PRDNER used a coarse grid to determine the maximum 1-hour SO_2 concentrations and the extent of the significant impact area. A denser refined grid was placed around the areas of maximum 1-hour concentration and discrete receptors were placed around the facility fence lines.

For the San Juan NAA, a coarse receptor grid with 250-meter spacing covers areas with violating receptors and the extent of the significant impact area. Two refined 50-meter spacing receptor grids cover the two areas with maximum 1-hour SO_2 concentrations around PREPA San Juan and PREPA Palo Seco.

For the Guayama-Salinas NAA, a coarse grid with 1000-meter spacing extending out to 50 kilometers from the source is used to determine the significant impact area. Two refined 50-meter spacing receptor grids cover the area with the maximum 1-hour SO_2 concentration and another area approximately five miles northwest of the facility. Beyond the 50-meter refined grid around the facility, a 250-meter spacing grid is also placed around the facility area to ensure that any significant concentrations are identified.

The EPA expects that the receptor network could be sufficient to identify maximum impacts from all the facilities in consideration for characterizing the NAAs in the PRDNER's future submission.

D. Meteorological Data

The PRDNER utilized onsite meteorological data from both the PREPA San Juan and PREPA Aguirre meteorological stations, which was collected and provided by PREPA. The PRDNER utilized concurrent Upper Air data measured at the San Juan National Weather Service located at the San Juan Airport. The PRDNER provided confirmation that PREPA collected the meteorological data and conducted quality assurance/quality control (QA/QC) procedures on the data in accordance with EPA's meteorological guidance.[54] The PRDNER further reviewed the data for relevance and quality assurance, as per the EPA's guidelines, prior to processing it for use within AERMOD. Since there was one year that satisfied the EPA's data completeness requirements, the PRDNER utilized only one year of meteorological data from 2013 for the San Juan NAA. In the Guayama-Salinas NAA, the PRDNER used three years of meteorological data from 2014–2016, since multiple years of data were available.

The EPA observed that the temperature data at both stations was measured at three meters above the rooftop and could be possibly influenced by other radiation sources. The concurrent San Juan National Weather Service data was used as a substitute only for the temperature data. Additionally, since the wind sensor was switched during the data collection period, the EPA requested that the PRDNER perform additional analysis on the data collected at PREPA Aguirre. The new sensor has a higher wind threshold compared to the older sensor. The EPA recommended that the PRDNER perform two separate AERMET runs, one with the older sensor threshold and another with the new sensor threshold, and then combine the files for use in AERMOD. The PRDNER followed this recommendation to process the data and used it for the AERMOD runs for the Guayama-Salinas NAA.

The PRDNER used AERMOD's meteorological data preprocessor AERMET (version 21112) with the ADJ_U* option (with no turbulence data included), and Upper Air meteorological data from the San Juan National Weather Service site, to process the data in AERMOD. The PRDNER used AERSURFACE (version 20060) using land cover data from the National Land Cover Database 200 (NLCD 2001) to estimate the surface characteristics (albedo, Bowen ratio, and surface roughness length).

E. Source Characterization

The EPA also reviewed the PRDNER's source characterization in its modeling assessment, including source types, use of accurate stack parameters, and inclusion of building dimensions for building downwash. The EPA expects that the PRDNER would use these in its future submission.

[51] When considering other sources to include in the modeling (other than those that are driving the nonattainment), Appendix W in section 8.3.3.b states that all sources expected to cause a significant concentration gradient in the vicinity of the source of interest should be explicitly modeled and that the number of such sources is expected to be small except in unusual cases.

[52] Data from 2014 was representative of the emissions data that was used for the designations of the SO_2 NAAs in Puerto Rico. Furthermore, the PRDNER used 2014 as the base year for emissions inventory preparation. The base year inventory establishes a baseline that is used to evaluate emission reductions achieved by the control strategy.

[53] *See* the Technical Support Document, Chapter 36, Final Round 3 Area designations for the 2010 1-Hour SO_2 Primary National Ambient Air Quality Standard for Puerto Rico, *available at https://www.epa.gov/sites/default/files/2017-12/documents/36-pr-so2-rd3-final.pdf.*

[54] *See* ''Meteorological Monitoring Guidance for Regulatory Modeling Applications'' (Feb. 2000), *available at https://www.epa.gov/sites/default/files/2020-10/documents/mmgrma_0.pdf.*

F. Emissions Data

The PRDNER used maximum allowable 1-hour emissions from PREPA San Juan and PREPA Palo Seco for the San Juan NAA, and from PREPA Aguirre for the Guayama-Salinas NAA. The modeling included the certified SO_2 emission rates as provided by PREPA. The modeling demonstration considers unit retirements at the PREPA facilities as discussed in Section V, subsection G below. The PRDNER did not include start-up and shut-down emissions in the modeling due to their infrequent occurrence of up to 2–3 times a year.

G. Retirements and Emission Limits

The PRDNER's attainment modeling in both the San Juan and Guayama-Salinas NAAs is based on the retirement of emission units and the implementation of emission limits for units that will remain in operation for electricity generation at the PREPA San Juan, PREPA Aguirre, and PREPA Palo Seco facilities through requiring fuel switching to ULSD (Ultra Low Sulfur Diesel) fuel and LNG (Liquified Natural Gas). The PRDNER noted in its SIP narrative and Rule 425 of the RCAP that the retirement dates for the plan were provided by the PREB based on the projected integration of renewable energy to the generation grid.[55] The PRDNER noted that this compliance strategy is consistent with the existing approved IRP, as it considers the addition of power generation and emission unit retirements within the PREPA fleet.

Table 5 summarizes the SO_2 emission limits (lb/hr) and/or other requirements, including fuel to be fired (0.0015% by weight (15 ppm) ULSD) and retirements, for emission units at the PREPA Palo Seco facility.

TABLE 5—PREPA PALO SECO SO_2 EMISSION LIMITS

Emission unit	SO_2 emission limit and/or other requirements	Compliance date
Boiler 1	Retire	June 30, 2023
Boiler 2[56]	Retire	June 30, 2023
Boiler 3	Retire	December 31, 2024
Boiler 4	Retire	December 31, 2025
Power Block 1–1, 1–2.	0.5 lb/hr, ULSD.	February 1, 2023
Power Block 2–1	0.5 lb/hr, ULSD.	February 1, 2023
Power Block 2–2[61].	Retire	June 30, 2023
Power Block 3–1	Retire	June 30, 2023
Power Block 3–2[61].	Retire	June 30, 2023
FT8 MobilePac 1	0.4 lb/hr, ULSD.	February 1, 2023
FT8 MobilePac 2	0.4 lb/hr, ULSD.	February 1, 2023
FT8 MobilePac 3	0.4 lb/hr, ULSD.	February 1, 2023

Table 6 summarizes the SO_2 emission limits (lb/hr) and/or other requirements, including fuel to be fired (0.0015% by weight (15 ppm) ULSD and 1 gram/100 dscf LNG) and retirements, for emission units at the PREPA San Juan facility.

TABLE 6—PREPA SAN JUAN SO_2 EMISSION LIMITS

Emission unit	SO_2 emission limit and/or other requirements	Compliance date
Gas Turbines SJ 5 & 6[57].	9.8 lb/hr, ULSD/LNG.	February 1, 2023
Boiler 7	Retire	June 30, 2023
Boiler 8	Retire	June 30, 2023
Boiler 9	Retire	December 31, 2024
Boiler 10	Retire	June 30, 2023

Table 7 summarizes the SO_2 emission limits (lb/hr) and/or other requirements, including fuel to be fired (0.0015% by weight (15 ppm) ULSD) and retirements, for emission units at the PREPA Aguirre facility.

TABLE 7—PREPA AGUIRRE SO_2 EMISSION LIMITS

Emission unit	SO_2 emission limit and/or other requirements	Compliance date
AG1	Retire	December 31, 2025
AG2	Retire	December 31, 2026
Gas Turbine CC1–1HRSG	Retire	December 31, 2028
Gas Turbine CC1–2HRSG	Retire	December 31, 2028
Gas Turbine CC1–3HRSG	Retire	December 31, 2028
Gas Turbine CC1–4HRSG	Retire	December 31, 2029
Gas Turbine CC2–1HRSG	Retire	December 31, 2029
Gas Turbine CC2–3HRSG	Retire	December 31, 2029

As indicated earlier in this section, the PRDNER's control strategy is based on the retirement of emission units and the implementation of emission limits for units that will remain in operation at the PREPA San Juan, PREPA Aguirre, and PREPA Palo Seco facilities through requiring fuel switching to ULSD and LNG. There is no intention and/or indication of an intention to implement longer-term averaging limits within the PRDNER's submission, and therefore, no

[55] The PREB provided a projected schedule for emission unit retirements and the integration of new renewable energy and battery storage resources via letter to the PRDNER on October 18, 2022, which was updated on November 15, 2022. These letters are available in the docket of this rulemaking.

[56] Palo Seco Boiler 2, Power Block 2–2, and Power Block 3–2 were permanently shut down and out of service on November 9, 2022 (to generate netting credits for three MobilePac units in Palo Seco).

[57] The Gas Turbines SJ 5&6 have been operating as dual-fuel units since late 2019. The PRDNER required the units to switch to ULSD by February 1, 2023. As of February 1, 2023, the SJ 5&6 emission units have been subject to a maximum sulfur content of 0.0015% by weight (15 ppm) (which is equivalent to an SO_2 emission rate of 5.1 lb/hr under ULSD firing), as well as a separate SO_2 limit of 9.8 lb/hr under LNG firing. As listed in Table 2 above, the PRDNER utilized the more conservative rate under LNG firing load for the attainment demonstration. More information pertaining to this can be reviewed on page 59 of the Modeling Protocol included in the docket for this rulemaking.

discussion regarding longer-term averaging limits is warranted.

Rule 425 of the RCAP provides requirements for the SO_2 plan, including providing emission reductions through an interim remedy. Under the ''Interim Plan,'' as detailed within Sections II, ''Emission Limitations for PREPA San Juan and PREPA Palo Seco'' and III, ''Emission Limitations for PREPA Aguirre'' of Rule 425, certain emission units located at the PREPA facilities in Palo Seco, San Juan, and Aguirre are prohibited from burning any fuel oil above a maximum sulfur content of 0.0015 percent by weight (15ppm) after February 1, 2023. To clarify, while the interim plan requiring ULSD provides for significant SO_2 emission reductions, there is no indication that the reductions are enough to provide for attainment of the NAAQS.

The PRDNER has provided a schedule of retirements for the PREPA steam generating units based on the integration of renewable energy into the system. According to Section II(B) and Section III(B) of Rule 425, the emission units from the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities shall be retired as early as the dates provided in tables 5–7 above, unless an alternative date is authorized by the PREB. This alternative date shall be no later than December 31, 2025, for PREPA San Juan and Palo Seco, and no later than December 31, 2029, for PREPA Aguirre.[58] If an alternative date is requested, PREPA would be required to submit to the PRDNER a revision to the construction and operation emission source permits, a copy of the PREB's alternative retirement date authorization, and an explanation for the necessity of the alternative date.

The EPA is not acting on Section II(B) and Section III(B) of Rule 425 since the EPA anticipates these provisions will be revised following the EPA's final action on the FFA, which will require the PRDNER to submit a subsequent SIP revision. The EPA further evaluates the approvability of Rule 425 within Section VI of the preamble for this notice of proposed rulemaking, entitled, ''The EPA's Evaluation of Rule 425.''

H. Background Concentrations

The PRDNER developed background concentrations for the NAAs using hourly SO_2 measurements from 2007–2009 at the Guayama SO_2 monitor, Air Quality System (AQS) number 72–057–0009.[59] Other SO_2 monitors, such as the Cataño (AQS ID 72–033–0004) or Bayamón (AQS ID 72–021–0010) monitors, are likely to be impacted by the PREPA facilities discussed here. This would result in double-counting of the impacts from those emissions, since the impacts from PREPA are modeled and the measured ambient data are added to the modeled impacts for a total concentration, which is compared to the NAAQS. The Guayama monitor is representative of the regional background and includes impacts from natural and man-made sources not explicitly included as sources in the modeling. The PRDNER used a design value from 2007–2009, since the more recent monitored data was incomplete and did not satisfy the EPA's data completeness requirements. The EPA also recommended that for 2007, the PRDNER use the maximum daily value of 36 ppb, instead of the 99th percentile concentration of 6 ppb, since there were some missing values in the second quarter of 2007.

I. Summary of Results

Because a new attainment date will be established upon the EPA's final determination that the NAAs failed to attain the standard by the mandatory attainment date of April 9, 2023, the EPA is not proposing action on the attainment demonstration portion of the PRDNER's November 2022 SIP submission within this rulemaking. Instead, the EPA will address the PRDNER's revised attainment demonstration following the SIP revision the PRDNER will be required to submit within 12 months of the EPA finalizing its determination that the areas failed to attain the standard.

VI. Review of Other Plan Requirements

A. Emissions Inventory

The emissions inventory and source emission rate data for an area serve as the foundation for air quality modeling and other analyses that enable states/territories to: (1) estimate the degree to which different sources within a NAA contribute to violations within the affected area, and (2) assess the expected improvement in air quality within the NAA as a result of the adoption and implementation of control measures. The state/commonwealth must develop and submit to the EPA a comprehensive, accurate, and current inventory of actual emissions from all sources of SO_2 in each NAA, as well as any sources located outside the NAA that may affect attainment in the area.[60]

The base year inventory establishes a baseline that is used to evaluate emission reductions achieved by the control strategy and to assess RFP requirements. In its submittal, the PRDNER used 2014 as the base year for emissions inventory preparation. 2014 data was used as the base year because SO_2 emissions data from this year was the most recently completed emissions data available for all sectors in the inventory. Data from 2014 was also representative of the emissions data that was used for the designations of the two SO_2 NAAs in Puerto Rico, which were based on emissions data between 2013 and 2015.

The PRDNER considered using 2017 as an emissions base year; however, it was determined that 2017 was not a representative year for fuel consumption due to the impacts from Hurricanes Irma and Maria. These hurricanes caused PREPA power plants, which generate electricity via the burning of fossil fuels and are the principal sources contributing to nonattainment in the San Juan and Guayama-Salinas areas, to be inoperative, or operate at reduced capacity, for several months. As a result, the PRDNER estimated that electrical generation was below fifty percent of the normal average in the last quarter of 2017.

The PRDNER utilized SO_2 actual emissions reported for the principal stationary point sources in the San Juan and Guayama-Salinas NAAs (*i.e.,* PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities), which were submitted under the SIP-approved RCAP Rule 410 (Maximum Sulfur Content in Fuels), and as a permit condition, which requires submission of certified annual reports to the PRDNER by PREPA. The PRDNER included the emissions calculations used to determine the actual SO_2 emissions using reported fuel usage data in its SIP submittal.[61] The 2014 National Emissions Inventory (2014 NEI) was used for the other emission inventory sectors.

Table 8 summarizes the 2014 SO_2 base year emission inventory by sector for the San Juan NAA.

[58] Apart from Palo Seco Boiler 2, Power Block 2–2, and Power Block 3–2, the EPA is not aware of any other retirements that have been made according to the proposed schedule in the tables herein.

[59] This SO_2 monitor site closed on January 1, 2023.

[60] CAA section 172(c)(3), 42 U.S.C. 7502(c)(3).

[61] Included in the appendix of the Baseline Emission Inventory 2014.

TABLE 8—BASE YEAR SO_2 EMISSIONS INVENTORY FOR THE SAN JUAN SO_2 NAA

[Tons per year]

Year	Stationary point sources	Stationary nonpoint sources	Stationary nonpoint events	Fuel combustion	Onroad mobile sources	Nonroad mobile sources
2014	8,262	37	<1	39	33	437

Table 9 summarizes the 2014 SO_2 base year emission inventory by sector for the Guayama-Salinas NAA.

TABLE 9—BASE YEAR SO_2 EMISSIONS INVENTORY FOR THE GUAYAMA-SALINAS SO_2 NAA

[Tons per year]

Year	Stationary point sources	Stationary nonpoint sources	Stationary nonpoint events	Fuel combustion	Onroad mobile sources	Nonroad mobile sources
2014	9,261	4	7	<1	3	<1

As shown in Tables 8 and 9, the majority of SO_2 emissions in the 2014 base year inventory can be attributed to the stationary point source category. Emissions for this category are provided in further detail in Table 10.

TABLE 10—BASE YEAR STATIONARY POINT SOURCE SO_2 EMISSIONS INVENTORY

Stationary point source	Nonattainment area	Emissions (tons per year)
PREPA Palo Seco	San Juan	3,128
PREPA San Juan	San Juan	5,135
PREPA Aguirre	Guayama-Salinas	9,261

A projected attainment year emissions inventory should also be included in the SIP submission, according to the 2014 SO_2 Guidance. This emissions inventory should include, in a manner consistent with the attainment demonstration, estimated emissions for all SO_2 sources that were determined to have an impact on the affected NAA for the projected attainment year.

In addition to the 2014 base year inventory of actual emissions, the PRDNER's submission included a projected emission inventory for the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities that includes allowable emissions from 2019 through 2029. The emissions projections represent current permit allowable emissions (2019–2022), emissions based on an interim remedy relying on the mandatory use of ULSD for certain units starting in February 2023, and emissions that provided for attainment of the 1-hour SO_2 NAAQS based on their final remedy (*i.e.,* emission unit retirements and fuel switching to ULSD or LNG from 2022–2029). Based on the schedule for enforceable retirements, the final projected emissions occur through December 31, 2025, for PREPA Palo Seco and PREPA San Juan, and December 31, 2029, for PREPA Aguirre, which extends beyond the April 9, 2023 attainment date. The PRDNER did not include an emission inventory for the actual 2023 attainment deadline year.

Table 11 summarizes the PRDNER's projected emissions for the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities for 2019–2029.

TABLE 11—PROJECTED STATIONARY POINT SOURCE SO_2 EMISSIONS FOR 2019–2029

[Tons per year]

Stationary point source	Base potential to emit (PTE)	Interim PTE (2023)	Final PTE	Change (base to final)
PREPA Palo Seco	17,157	11,013	12	−17,145
PREPA San Juan	10,215	9,496	43	−10,172
PREPA Aguirre	31,246	19,199	4	−31,242

The EPA has evaluated the PRDNER's 2014 base year inventory and the 2019–2029 projection year inventory. The EPA proposes to find the base year inventory and the methodologies used for its development consistent with the EPA's guidance. As a result, the EPA is proposing to determine that the San Juan and Guayama-Salinas SO_2 nonattainment plan meets the requirements of CAA section 172(c)(3) for the San Juan and Guayama-Salinas SO_2 NAAs for its 2014 base year inventory.

As previously stated, the projected emissions inventory includes estimated emissions for SO_2 emission sources for a projected attainment year that extends beyond the CAA mandatory attainment date of April 9, 2023. That said, since a new attainment date will be

established following the EPA's final determination that the areas failed to attain the standard, the PRDNER will be expected to update the projection year emissions inventory in its subsequent SIP revision. The subsequent SIP revision will be required to be submitted within 12 months of a final determination on the EPA's proposed determination, in accordance with CAA section 179(d). Consequently, the EPA is not proposing action on the projection year emissions inventory in this rulemaking.

B. RACM and RACT and Enforceable Emission Limitations and Control Measures

CAA section 172(c)(1) states that nonattainment plans should ''provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology) and shall provide for attainment of the national primary ambient air quality standards.'' CAA section 172(c)(6) requires plans to ''include enforceable emissions limitations, and such other control measures [. . .] as may be necessary or appropriate to provide for attainment of [the NAAQS].''

The necessary emissions limitations or other control measures in the PRDNER's 2022 submitted plan for attaining the 1-hour SO_2 NAAQS in the San Juan and Guayama-Salinas NAAs are based on emission unit retirements and fuel switching to ULSD. As previously mentioned, the enforceable control measures established in RCAP Rule 425 were to be implemented from June 30, 2023, through December 31, 2025, in the San Juan NAA, and December 31, 2025, through December 31, 2029, in the Guayama-Salinas NAA.

Rule 425 provides exemptions allowing for alternative retirement dates, provided they are approved by PRDNER and the PREB, but no later than December 31, 2025 for the San Juan NAA, and December 31, 2029 for the Guayama-Salinas NAA. As a result of these exemptions, the EPA believes the retirement dates listed under Rule 425 would not provide permanently enforceable measures for major sources of SO_2. The EPA anticipates that the PRDNER will remove these exemptions within the subsequent SIP revision that Puerto Rico will be required to submit within one year of the final determination of the EPA's proposed finding that the areas failed to attain the standard by the statutory attainment date.

Because the San Juan and Guayama-Salinas NAAs will be subject to a new attainment date, which will be five years following the EPA's final determination that the areas failed to attain the standard, the EPA is not proposing action on the PRDNER's RACM/RACT and emissions limitations or control measures that were submitted in accordance with CAA sections 172(c)(1) and (6). As a result of this new attainment date, the EPA expects these elements will be revised within the subsequent SIP revision that the PRDNER will be required to submit within one year of the EPA's final finding that the areas failed to attain the standard. The EPA will act on these elements upon receipt of the PRDNER's subsequent SIP revision.

C. New Source Review

Part D of title I of the CAA prescribes the procedures and conditions under which a new major stationary source or major modification may obtain a preconstruction permit in an area designated nonattainment for any criteria pollutant. The nonattainment new source review (NNSR) permitting requirements in section 172(c)(5) and 173 of the CAA are among ''the requirements of this part'' to be submitted to the EPA as part of a revised SIP for a nonattainment area within 18 months of the effective date of a designation or redesignation to nonattainment. The NNSR permitting requirements provide for the permitting of any proposed major stationary source of SO_2 located in a NAA under the 2010 SO_2 NAAQS.

The PRDNER submitted its NNSR program's rules for SO_2 and other future potential nonattainment pollutants in its SIP submission to the EPA on November 22, 2022. Specifically, the PRDNER submitted [62] for SIP approval, Rule 102, ''Definitions,'' as amended, which includes definitions relevant to nonattainment; and Rule 210, ''Nonattainment Provisions,'' which establishes the requirements necessary to construct or modify major emission sources of SO_2 and other pollutants in areas designated as NAAs.

The PRDNER's NNSR program rules are evaluated in Section VII, ''Puerto Rico's New Source Review Program'' of the preamble within this notice of proposed rulemaking. These rules provide appropriate new source review for SO_2 sources undergoing construction or major modification in the San Juan and Guayama-Salinas NAAs, including meeting the applicable statutory requirements, which include but are not limited to the installation of Lowest Achievable Emissions Rate (LAER) control technology and the acquisition of emissions reductions to offset new emissions of nonattainment pollutant(s). Based on the EPA's evaluation in Section VII, the EPA is proposing, upon final approval of the RCAP's Rules 102 and 210, that the new source requirements have been met for the San Juan and Guayama-Salinas NAAs.

D. Reasonable Further Progress

The EPA's policy that Reasonable Further Progress (RFP) for SO_2 may be satisfied by ''adherence to an ambitious compliance schedule'' is based on the fact that ''for SO_2 there is usually a single 'step' between pre-control nonattainment and post-control attainment.'' [63] Because a new attainment date will be promulgated upon the EPA's final determination that the NAAs failed to attain the standard by the statutory attainment date, and the EPA expects this element will be revised by the PRDNER with the subsequent SIP revision required following the EPA's final determination, the EPA is not proposing action on the requirements listed under CAA section 172(c)(2), to provide for RFP toward attainment in the San Juan and Guayama-Salinas SO_2 NAAs.

E. Contingency Measures

As discussed in the EPA's SO_2 guidance, section 172(c)(9) of the CAA defines contingency measures as measures in a SIP that are to be implemented in the event an area fails to make RFP, or fails to attain the NAAQS, by the applicable attainment date. Contingency measures are to become effective without further action by the state/commonwealth or the EPA, where the area has failed to (1) achieve RFP or (2) attain the NAAQS by the statutory attainment date for the affected area. These control measures are to consist of other available control measures that are not included in the control strategy for the NAA SIP. The EPA's guidance describes special features of SO_2 planning that influence the suitability of alternative means of addressing the requirement in section 172(c)(9) for contingency measures for SO_2. Because SO_2 control measures are by definition based on what are directly and quantifiably necessary emissions

[62] Rule 425, ''Provisions for SO_2 Nonattainment Areas,'' which contains the emission limits and other control measures for the PREPA San Juan, PREPA Palo Seco, PREPA Aguirre facilities, as well as for the San Juan and Guayama-Salinas NAAs, is evaluated in Section VI.B of this notice.

[63] 2014 SO_2 Guidance, at 40.

controls, any violations of the NAAQS are likely related to source violations of a source's permit terms. Therefore, an appropriate means of satisfying this requirement for SO_2 is for a state to have a comprehensive enforcement program that identifies sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement.

For its contingency measures program, the PRDNER indicated it will continue to operate a comprehensive program to identify sources violating the SO_2 NAAQS, and that it will undertake compliance inspections and necessary enforcement actions.

In its submission to the EPA, the PRDNER clarified that it has authority under Article 9(a)(7) of the Puerto Rico Energy Public Policy Act (PREPPA) to order persons causing or contributing to a condition which harms the environment and natural resources, or which poses an imminent danger for the public health and safety, to immediately diminish or discontinue their actions. Furthermore, the PRNDER indicated that Article 9(a)(8) of PREPPA provides the PRDNER with the authority to issue orders to take the preventative or control measures necessary.

Accordingly, the PRDNER also included a provision that, upon notification by the PRDNER that a nearby monitor has four validated SO_2 concentrations in excess of the standard or has a monitored SO_2 violation based on the design value, PREPA would be required to undertake a system audit of emissions units. Consequently, an audit report would be required for submission by PREPA to the PRDNER within 90 days of the notification. An audit report would detail the operating parameters of all emissions units for four 10-day periods up to and including the date upon which the reference monitor registered each exceedance, together with recommended SO_2 emission control strategies, and evidence that the strategies have been deployed, as appropriate. Upon receipt of the report, the PRDNER would begin a 60-day evaluation period to diagnose the exceedance, to be followed by a 60-day consultation period with PREPA to develop and implement necessary operational changes. The PRDNER indicated that such changes may include fuel switching, physical or operational reductions, or other changes that the PRDNER determined to be appropriate. Additionally, if any new emission limits were deemed necessary, the PRDNER indicated they would be submitted to the EPA as a SIP revision.

The PRDNER has also provided details on the corrective actions to occur if emission sources do not comply with required emission limits and other requirements in Section VI of Rule 425. Specifically, this includes expedited procedures for establishing enforceable consent agreements when the adoption of revised SIPs is pending, and subjecting any source that is found to be in violation of an approved compliance plan or requirement within such plan to repercussions listed under Rule 115. Additionally, under Rule 425, the PRDNER indicated that if a new measure or control was determined to be sufficient to address violations of the SO_2 NAAQS and was promulgated or scheduled to be implemented at the federal or state level, additional local measures might be unnecessary following the PRDNER's submission of an analysis to the EPA demonstrating that such proposed measures were adequate to return an area to attainment. Under Rule 425, the PRDNER will also have the authority to require any owner or operator of an SO_2 emissions source contributing to air pollution to install, operate, and maintain monitoring devices; as well as maintain records and file periodic reports to the PRDNER. The PRDNER will also have the ability under Rule 425 to require the submission of an ''Ambient Air Quality Monitoring Plan'' that complies with the EPA's guidelines and includes an air quality and meteorological measurement network which collects accurate SO_2 air quality and meteorology data within the zone impacted by SO_2 emissions from a source. Finally, the PRDNER will have authority under Rule 425 to issue additional orders which require that a previously submitted plan be clarified, updated, corrected, supplemented, or otherwise amended.

The PRDNER also provided information regarding a proposed ''Attainment Ambient Monitoring Network'' (or AAMN). The PRDNER proposed that the AAMN would establish 12 SO_2 monitoring stations, with six in each of the two nonattainment areas. The location of these proposed stations would be determined based on an analysis that predicts the maximum concentrations using the EPA-approved AERMOD model. Additionally, the PRDNER indicated that the proposed SO_2 monitoring will be subject to 40 CFR part 58 requirements to be used for comparison to the NAAQS. The EPA did not approve any new SO_2 sites as part of PRDNER's 2023 AMNP.[64] Based on the preliminary information provided, the EPA does not believe there is sufficient information to evaluate the appropriateness of the AAMN as part of the contingency measures for the plan.

Although Puerto Rico has taken significant steps to develop a comprehensive program to satisfy the contingency measures requirement for SO_2, the EPA's policy is premised on full compliance with the approvable controls and limits required in the approvable plan to ensure attainment. However, as previously discussed, the EPA is not proposing action on related CAA section 172(c) elements of the attainment plan, including the attainment demonstration, the RFP, and the RACM/RACT and enforceable emission limitation elements of the SIP, because Puerto Rico will be required to submit a revised SIP which the EPA anticipates will contain an updated control strategy based on the new attainment date that will be established with the EPA's final determination that the areas failed to attain the standard. Thus, the EPA is not proposing action on the contingency measures the PRDNER provided in its submission to satisfy section 172(c)(9), because the approvability of the contingency measures element depends upon the approvability of the attainment demonstration.

F. Conformity

Generally, as set forth in section 176(c) of the CAA, conformity requires that actions by federal agencies do not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant NAAQS. General conformity applies to federal actions, other than certain highway and transportation projects, if the action takes place in a NAA or maintenance area (*i.e.,* an area which submitted a maintenance plan that meets the requirements of section 175A of the CAA and has been redesignated to attainment) for ozone, particulate matter, nitrogen dioxide, carbon monoxide, lead, or SO_2. The EPA's General Conformity Rule establishes the criteria and procedures for determining if a federal action conforms to the SIP.[65]

With respect to the 2010 SO_2 NAAQS, federal agencies are expected to continue to estimate emissions for conformity analyses in the same manner as they estimated emissions for conformity analyses under the previous NAAQS for SO_2. The EPA's General

[64] *See* letter dated January 10, 2023, from Richard Ruvo, Director, EPA Region II, Air and Radiation Division to Anaís Rodríguez Vega, Secretary, Puerto Rico Department of Natural and Environmental Resources.

[65] 40 CFR 93.150 to 93.165.

Conformity Rule includes the basic requirement that a federal agency's general conformity analysis be based on the latest and most accurate emission estimation techniques available.[66] When updated and improved emission estimation techniques become available, the EPA expects federal agencies will continue to use these techniques to ensure projects conform to the SIP.

The EPA concluded in its 1993 transportation conformity rule that highway and transit vehicles are not significant sources of SO_2. As a result, transportation conformity determinations are not required in SO_2 nonattainment and maintenance areas. Therefore, transportation plans, transportation improvement programs, and projects are presumed to conform to applicable implementation plans for SO_2.

VII. Puerto Rico's New Source Review Program

The PRDNER's permitting requirements for the preconstruction review of new major sources in NAAs are set forth in the revisions to Rule 102, ''Definitions,'' and the newly adopted Rule 210, ''Nonattainment Provisions.'' The PRDNER's NNSR program applies to the construction and modification of any major stationary source of air pollution in a NAA, as required by part D of title I of the CAA. To receive approval to construct, a source that is subject to these regulations must show that it will not cause a net increase in pollution with more than a 1:1 offset ratio, will not create a delay in meeting the NAAQS, and will install and use control technology that achieves the LAER. The revisions to Rule 102 and the newly created Rule 210 within the RCAP, which the EPA is proposing to approve into the SIP, incorporate provisions that are consistent with the current federal requirements for an approvable nonattainment NSR program in 40 CFR 51.165. Among these provisions is the prohibition of construction, unless an effective permit is issued that meets the requirements of Rule 210, and a certification from the applicant that all existing major stationary sources owned and operated by the applicant in Puerto Rico are complying with all applicable emissions standards of the CAA or that such stationary sources are in compliance with an expeditious schedule which is federally enforceable or contained in a court decree.

As part of its review of the PRDNER's NNSR submittal, the EPA has determined that the revisions are consistent with the program requirements for the preparation, adoption, and submittal of implementation plans for NNSR, set forth at 40 CFR 51.165.

VIII. The EPA's Evaluation of Rule 425

On November 21, 2022, the PRDNER promulgated the new Rule 425, ''Provisions for SO_2 Non-Attainment Areas.'' The new Rule 425 was included within the November 22, 2022 SIP revision submitted by the PRDNER.

The EPA is proposing to approve, for SIP-strengthening purposes and to make federally enforceable, the following sections of Rule 425: Section I, ''Applicability;'' Section IV, ''Emission Limitations for San Juan and Guayama-Salinas Non-Attainment Areas,'' Section V, ''Measurement methods and procedures,'' Subsections (A), (B), and (E); and Section VI, ''Contingency Measures.'' Additionally, the EPA is proposing to conditionally approve Section II, ''Emission Limitations for PREPA San Juan and PREPA Palo Seco,'' Subsection (A), Section III, ''Emission Limitations for PREPA Aguirre,'' Subsection (A), Section V, ''Measurement methods and procedures,'' Subsections (C), (D), and (F).

Rule 425 is applicable to the current and future owners or operators of the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities, as indicated under Section I, ''Applicability'' of Rule 425. Additionally, under Section I of Rule 425, any other major sources in or nearby the NAAs that have not undergone a major modification or construction of a new emission unit subject to Rule 210 are also subject to the provisions of Rule 425. The EPA proposes to approve the applicability provisions listed under Section I of Rule 425 for SIP-strengthening purposes.

Under Section II, ''Emissions Limitations for PREPA San Juan and PREPA Palo Seco'' and Section III, ''Emission Limitations for PREPA Aguirre'' of Rule 425, details are provided regarding compliance start dates for fuel switching to ULSD of certain emission units, retirement schedules for emission units not being converted to ULSD, and emission limits for units using ULSD or LNG at the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities. The EPA is proposing to conditionally approve the ULSD emission limits for units listed under Section II(A) and Section III(A) of Rule 425, which prevent the burning of any fuel oil above a maximum sulfur content of 15 ppm at the three aforementioned PREPA facilities, since fuel switching of emission units to ULSD is expected to result in a significant decrease of sulfur emissions, providing for improved air quality. Details regarding the conditional approval and revisions the PRDNER has committed to make to Rule 425 as discussed in its September 2, 2024 commitment letter[67] are provided in the following paragraphs of this section. In accordance with section 110(k)(4) of the CAA, this proposed conditional approval is based on the PRDNER's commitment to make specific revisions to Section V of Rule 425, which will address concerns the EPA has regarding the enforceability of emission limits for the specific units listed under Section II(A) and Section III(A), and to submit such revisions to the EPA by January 1, 2026 for approval into the SIP for Puerto Rico.

The EPA is not proposing to approve and is taking no action on Section II(B) and Section III(B) of Rule 425, which list the retirement schedules for emission units and detail emission limits for units at the three PREPA facilities, since the EPA anticipates these schedules will be revised by Puerto Rico to conform with the updated control strategy submitted by the PRDNER in the subsequent SIP submission required under the CAA following the EPA's final determination that the areas failed to attain. Additionally, the retirement provisions within Section II(B) and Section III(B) of Rule 425 allow the PRDNER to request an alternate date, which provides exemptions to a control strategy and are therefore not a permanently enforceable control strategy.

In addition, under Section IV, ''Emission Limitations for San Juan and Guayama-Salinas Non-Attainment Areas'' of Rule 425, any emission source (or any nearby sources having a significant impact) within the boundaries of the San Juan and Guayama-Salinas NAAs, except for PREPA emission units, shall comply[68] with all the provisions within subsection IV(A). Thus, no owner or operator of any combustion units within the boundaries of the NAAs, or nearby sources having a significant air quality impact on SO_2, shall cause or permit the burning of any fuel oil above a maximum sulfur content of 0.0015

[66] 40 CFR 93.159(b).

[67] Details regarding the EPA's conditional approval and the revisions which the PRDNER has committed to make to RCAP Rule 425 by January 1, 2026, can be found within the commitment letter the PRDNER submitted to the EPA on September 2, 2024, and which the EPA has included within the docket for this action.

[68] Emission sources are also required to comply with provisions provided under Rules 401 through 421 of the RCAP.

percent by weight (15 ppm) by no later than April 9, 2023 (Sections IV(A)(l)–(2) of Rule 425). Under Section IV(B), owners or operators of stationary sources subject to the limitations of Section IV(A) are required to certify in writing to the PRDNER that such source complies with Rule 425. Finally, under Section IV(C), any owner or operator of a stationary source subject to the limitations of Section IV(A) that cannot comply with the emission limits established by the date required under Rule 425 shall create a compliance plan which implements RACT in accordance with Rule 205 and in compliance with Rule 425. Upon the PRDNER's approval, a compliance plan must then be implemented and certified by a responsible official for accuracy. The EPA is proposing to approve Section IV of Rule 425 for SIP-strengthening purposes, as it provides for the reduction of SO_2 emissions within the NAAs and provides air quality benefits.

Regarding the test methods to be utilized when determining compliance with the allowable emission limits listed under Rule 425, the PRDNER requires the use of test methods provided in 40 CFR part 60. Further detail regarding the test methods and procedures for PREPA to determine compliance with the allowable emission limit for any fuel other than coal at the PREPA facilities in San Juan, Palo Seco, and Aguirre is provided under Section V, ''Measurement methods and procedures'' of Rule 425. The EPA acknowledges the PRDNER's recommended on-site fuel sampling of ULSD (and LNG for PREPA San Juan) in accordance with USEPA Method 19, ASTM D2622, D4294, D5453, D7039, or other appropriate EPA or ASTM method. The EPA also acknowledges the requirement for the PREPA facilities to have monitors recording the amount of each fuel type burned at each emission unit on an hourly basis and the requirement for PREPA to sample each batch of fuel prior to use for sulfur content (percent by weight), heat value, and density. Additional provisions under Rule 425 concern sample submission for laboratory analysis and maintenance of laboratory analysis records for a period of at least five years. Under this rule, PREPA will also be required to maintain monthly records listing (a) the fuel used (hourly usage and total fuel used for the month), (b) sulfur content of the fuel, fuel density, fuel heating value, and the basis for the sulfur content used (fuel analysis showing the date the sample was collected, type of fuel, sulfur content, and fuel heating value), and (c) SO_2 emission rates (lb/hr) with the assumption that 100% of the sulfur in the fuel is converted to SO_2. Accordingly, the EPA proposes to approve Subsections (A), (B), and (E) of Section V under Rule 425 for SIP-strengthening.

Furthermore, under the current Section V of Rule 425, the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities (and any owner or operator of an SO_2 emission source subject to Rule 425) will be required to retain all data, calculations, and reports from any performance test or fuel sample developed for the purpose of demonstrating compliance with the applicable emission limits, emission tracking requirements, or emission rate limits, for a minimum of five years. Additionally, Section V will require that these records be made available for inspection to the PRDNER upon its request. Under Rule 425, the PRDNER will also have the authority to issue orders to require performance testing, fuel sampling, or require record-keeping and reporting of emission information.

The EPA is proposing to conditionally approve the reporting provisions under Rule 425, Section V, Subsections (C), (D), and (F), which only require an owner or operator of an SO_2 emission source in the NAAs to make records available for inspection purposes and following the PRDNER's request. Section V of Rule 425 includes provisions imposing monitoring and recordkeeping obligations on the relevant sources, such as performance and fuel testing, and retention of records needed to demonstrate compliance with the relevant emission limitations; however, the EPA is concerned that the absence of periodic reporting obligations under Subsections (C), (D), and (F) may interfere with enforcement of the rule. On September 2, 2024, the PRDNER submitted a letter committing to revise the reporting provisions under Subsections (C), (D), and (F) by January 1, 2026, which will require facilities subject to Rule 425 to submit reports semi-annually (*i.e.,* every six months). In accordance with section 110(k)(4) of the CAA, the EPA may conditionally approve a plan based on a commitment from a State/commonwealth to adopt specific enforceable measures and submit the necessary SIP revisions to the EPA by a date certain.

If this conditional approval is finalized as proposed, the conditionally approved provisions of Rule 425 will become part of the SIP and will be federally enforceable as of the effective date of the final conditional approval. If the PRDNER submits the revisions to Rule 425 by January 1, 2026, as committed to in its September 2, 2024 commitment letter, the conditionally approved provisions will remain a part of the SIP unless the EPA disapproves the revisions to Rule 425 through notice-and-comment rulemaking. If the EPA takes final action approving the revisions to Rule 425 into the SIP, in the same final action, the EPA will also convert the conditional approval of Rule 425, Section V, Subsections (C), (D), and (F), to an approval by making appropriate revisions to the SIP in the Code of Federal Regulations. If the EPA disapproves the revisions to Rule 425 intended to satisfy the PRDNER's commitment, the conditional approval will convert to a disapproval, and the conditionally approved provisions of Rule 425 will no longer be a part of the approved SIP for Puerto Rico.

If the PRDNER fails to meet its commitment to submit the necessary SIP revisions to the EPA by January 1, 2026, or if the PRDNER submits timely SIP revisions, but the EPA finds the SIP submittal to be incomplete, this conditional approval will be converted to a disapproval. In either case, the EPA would notify the PRDNER by letter that the conditional approval has converted to a disapproval and the EPA would subsequently publish a document in the **Federal Register** announcing that the conditional approval converted to a disapproval.

As previously stated, the EPA is proposing to conditionally approve the ULSD emission limits described in Section II(A) and Section III(A) of Rule 425, since the emission limits provide for a significant decrease in sulfur emissions. The EPA is also proposing to conditionally approve the reporting provisions which apply to these limits described in Section V, Subsections (C), (D), and (F). The EPA, however, is not conditionally approving these sections for compliance with CAA section 172(c) requirements.

Finally, as previously discussed under Section VI.E, ''Contingency Measures,'' of this preamble, Section VI, ''Contingency Measures'' of Rule 425 specifies corrective actions [69] to be taken if emission sources do not achieve compliance with emission limits

[69] These provisions, which are more fully discussed by EPA in Section VI, subsection E of this proposed rulemaking, include expedited procedures for establishing enforceable consent agreements; repercussions for violations; assessing new measures; monitoring, reporting, and recordkeeping requirements; assessment of additional local measures; and the PRDNER's ability to require previously submitted plans to be clarified, updated, corrected, supplemented, or otherwise amended.

established in Rule 425 by the dates specified.

Moreover, in Section VI. E of this notice of proposed rulemaking, the EPA has indicated that the Agency is not proposing action on the contingency measures within the PRDNER's plan. That is because the EPA's policy is premised on full compliance with approvable controls and limits required in the approvable plan to ensure attainment. However, the EPA recognizes that the corrective actions outlined in Section VI of Rule 425 will have an overall positive impact on air quality in the San Juan and Guayama-Salinas NAAs. Therefore, the EPA is proposing to approve Section VI of Rule 425 for SIP strengthening and not to satisfy the contingency measure requirements of CAA 172(c)(9).

IX. Environmental Justice Considerations

The PRDNER did not provide any information within its November 22, 2022, SIP submittal to the EPA regarding environmental justice (EJ) considerations within the two NAAs. For informational purposes only, the EPA evaluated EJ considerations during its review of the PRDNER's SO_2 SIP submittal. The EPA did not rely on this information to reach any decisions described in this action. Notably, the CAA and applicable implementing regulations neither prohibit nor require such evaluation of EJ. The following information and discussion is provided for informational purposes only. An informational application of the White House's Climate and Economic Justice Screening Tool (CEJST) [70] produced information that indicates that nearly all census tracts (or 95% of the population) within Puerto Rico are considered disadvantaged.[71]

The evaluation here of environmental burdens and susceptible populations is based on screening-level analyses utilizing version 2.2 of the EPA's Environmental Justice Screening and Mapping Tool (EJScreen).[72] EJScreen is the EPA's EJ screening and mapping tool that provides EPA with a nationally consistent dataset and approach for combining environmental and demographic socioeconomic indicators. EJScreen is not a detailed risk analysis of EJ issues/concerns; rather, it is a screening tool that examines some of the relevant issues related to EJ, and there is uncertainty in the data included.

Through its use of EJScreen, the EPA determined that there may be potential EJ concerns within both SO_2 NAAs and the areas within a 1-mile radius of the three PREPA facilities. The EJScreen Community Reports are provided in the docket for this action. The results of these analyses are being provided for informational and transparency purposes only.

In using EJScreen, if any of the EJ indices for the areas under consideration are at or above the 80th percentile nationally, then further review may be appropriate.[73] Thus, the EPA's discussion of EJScreen results will focus on bringing attention to indices at or above the 80th percentile. As discussed in the EPA's EJ technical guidance,[74] people of color and low-income populations often experience greater exposure and disease burdens than the general population, which can increase their susceptibility to adverse health effects from environmental stressors. Underserved communities can also experience reduced access to health care, nutritional, and fitness resources, further increasing their susceptibility.

Furthermore, the EJScreen tool provides information on 13 EJ Indices and 13 Supplemental Indices. Out of these, 11 indices have available data to derive in parts of Puerto Rico. Each index combines one environmental measure with demographic data [75] to characterize potential areas of EJ concern that may warrant further consideration, analysis, or outreach. The EJ indices help screen for potential EJ concerns and combine data on low-income and people of color populations with a single environmental indicator. The supplemental indices offer a perspective on community-level vulnerability and combine data on percent low-income, percent linguistically isolated, percent with less than a high school education, percent unemployed, and low life expectancy with a single environmental indicator. It is also possible to compare indices for a given area to other locations within the nation and a State (or commonwealth). Specific background and source information on these indices and environmental indicators can be found in the EPA's ''EJScreen Technical Documentation for Version 2.2.'' [76]

The population living within the San Juan NAA has high (for the purpose of this discussion, at or above the 80th percentile) EJ and/or Supplemental Index values at the national and/or State (or commonwealth) level for 9 of the 11 indices available in EJScreen. These include Diesel Particulate Matter, Toxic Releases to Air, Traffic Proximity, Lead Paint, Superfund Proximity, RMP Facility Proximity, Hazardous Waste Proximity, Underground Storage Tanks, and Wastewater Discharge. While none of these indices have direct implications to SO_2 emissions, and are not at issue in the SIP submission, they highlight that there may be some potential EJ concerns within the area.

The population living within the Guayama-Salinas NAA also has high (for the purpose of this discussion, at or above the 80th percentile) EJ and/or Supplemental Index values at the national and/or State (or commonwealth) level for 6 of the 11 indices available in EJScreen. These include Air Toxics Cancer Risk, Toxic Releases to Air, Traffic Proximity, Lead Paint, Superfund Proximity, and Wastewater Discharge. While none of these indices have direct implications to SO_2 emissions, and are not at issue in the SIP submission, they highlight that there may be some potential EJ concerns within the area.

The EPA elected to conduct further analysis of the areas within a 1-mile radius of the three PREPA facilities (and within the NAAs) to ensure that the areas of maximum impact from emissions at the PREPA facilities were being considered.

The results in EJScreen for the areas within a 1-mile radius of both the PREPA San Juan and PREPA Palo Seco facilities indicated that the populations were in the 96th percentile for People of Color nationally (99 percent of the population in both of the areas within a 1-mile radius are considered People of Color). The area within a 1-mile radius of the PREPA San Juan facility is in the 97th percentile nationally for low income (81 percent of the population within a 1-mile radius of the PREPA San Juan facility is considered to be low-income), and the area within a 1-mile radius of the PREPA Palo Seco facility

[70] *See https://screeningtool.geoplatform.gov/en/#3/33.47/-97.5.*

[71] A census tract is considered disadvantaged if it meets the thresholds for at least one of the tool's categories of burden or it is on the lands of a federally recognized Tribe. Additional information on the categories of burden can be found at *https://screeningtool.geoplatform.gov/en/methodology.*

[72] *See https://www.epa.gov/ejscreen.*

[73] For early applications of EJScreen, the EPA identified the 80th percentile filter as the initial starting point for the purpose of identifying geographic areas that may warrant further consideration. In other words, an area with any of the 13 EJ Indices at or above the 80th percentile nationally should be considered as a potential candidate for further review. *See https://www.epa.gov/ejscreen/how-interpret-ejscreen-data.*

[74] *See https://www.epa.gov/system/files/documents/2023-06/ejscreen-tech-doc-version-2-2.pdf.*

[75] Demographic and socioeconomic data utilized within EJS is obtained from the U.S. Census Bureau's American Community Survey (ACS) 2017–2021 5-Year Estimates.

[76] *See https://www.epa.gov/system/files/documents/2023-06/ejscreen-tech-doc-version-2-2.pdf.*

is in the 76th percentile (46 percent of the population within a 1-mile radius of the PREPA Palo Seco facility is considered to be low-income). The population living within a 1-mile radius of the PREPA San Juan facility is at or above the 90th percentile for EJ and/or Supplemental Index values at the national and/or State (or commonwealth) level for all 11 available indices in EJScreen. The population living within a 1-mile radius of the PREPA Palo Seco facility is at or above the 80th percentile for EJ and/or Supplemental Index values at the national/and or State (or commonwealth) level for 7 of the 10 available indices. In addition, the population within the Guayama-Salinas NAA, and within a 1-mile radius of the PREPA Aguirre facility, are both in the 98th percentile nationally for People of Color (with 100 percent of the population considered People of Color), and in the 96th percentile nationally for low-income (with 78 percent of the population considered low-income).

Based on all the screening-level demographic and socioeconomic data previously detailed, the populations within both NAAs and within a 1-mile radius of the three PREPA facilities are predominately made up of people of color and/or low-income individuals. As a result, conditions that exist prior to this action have the potential to result in disproportionate and adverse effects on communities with EJ concerns.

The reliability of Puerto Rico's energy infrastructure has been impacted by a combination of factors, including its vulnerability to severe storms and an aging fossil fuel-reliant generation fleet. After Hurricane Maria in 2017, Puerto Rican households experienced the largest and longest blackout in U.S. history, and the second-longest blackout in the world, with 80 percent of the island's power lines leveled.[77] Moreover, Puerto Rico's fleet of fossil fuel generators is the oldest in the United States, with an average age of 44 years as compared with the national average of 18 years.[78] Notably, although the poverty rate in Puerto Rico is more than three times the national average, Puerto Ricans pay an average of almost twice as much for electricity as U.S. mainland customers.[79] The average price of electricity in 2022 across all sectors (residential, commercial, and industrial) in Puerto Rico averaged 29.63 cents/kWh, which is higher than every U.S. State except Hawaii (and excluding other U.S. Territories).[80]

The EPA anticipates that its proposed conditional approval of the use of ULSD at the three PREPA facilities will not negatively impact energy reliability for citizens within the NAAs. The lower sulfur content in ULSD (15 ppm) has the potential to reduce harmful emissions from nonroad diesel sources by more than 90%.[81] Thus, the anticipated significant reduction in sulfur content, compared to the sulfur content of diesel fuel previously used at the three PREPA facilities, is expected to result in approximately 15,000 tons of projected SO_2 reductions annually that will bring the NAAs closer to attainment of the NAAQS.[82] At a minimum, this action is not expected to worsen any existing air quality, and the EPA believes that this proposed action will provide benefits to communities living within the NAAs, as it will provide for emission reductions along with ensuring the continued operation of existing electric generating units at the PREPA facilities.

Public participation and community involvement are crucial for ensuring that decisions affecting human health and the environment advance environmental justice considerations. Communities affected by environmental justice issues often face many challenges and barriers associated with meaningful involvement and adequate representation in the development, implementation, and enforcement of environmental laws, regulations, and policies. Consequently, to provide ample time for meaningful involvement, the EPA will extend its comment period for this notice of proposed rulemaking (NPRM) from the customary 30 days to 60 days.

Additionally, as previously detailed within this NPRM, to provide effective and meaningful involvement from community members during the comment period for this NPRM, the EPA will hold public information sessions concerning this proposed rulemaking. Given the high percentage of households whose primary language is Spanish, the EPA intends to provide all public distributions and supporting and related materials for this rulemaking that are legally permitted to be translated, in both Spanish and English, to the best of its ability. A Spanish translator will also be present at these public information sessions to ensure participants are able to understand the information provided by the EPA. The EPA will announce the date, time, and location for each session on its website. These sessions will allow citizens an opportunity to learn more about this proposed action, which will enhance their ability to provide more informed official comments during the public comment period. See the Supplementary Information section for additional information regarding the Public Information Sessions.

As previously stated, this analysis of EJ considerations was done solely for the purpose of providing additional context and information about this proposed rulemaking to the public and is not a basis for the action. The EPA is taking action under the CAA and on bases independent of EJ.

X. The EPA's Proposed Action

First, the EPA proposes, under CAA section 179(c)(1), to determine that the San Juan and Guayama-Salinas areas failed to attain the 2010 1-hour SO_2 standard by the statutory attainment date of April 9, 2023. This determination is based upon a weight-of-evidence analysis, including (1) the control strategy timeline Puerto Rico identified and adopted into its RCAP and submitted in support of its air quality dispersion modeling of its November 22, 2022 SIP revision, which did not provide for attainment by the statutory attainment date; (2) Puerto Rico's inability to effectively implement the control strategy it identified and adopted within a timely manner thus far; and (3) the EPA's review of annual facility-wide emissions data from January 2020 through December 2022 for the PREPA San Juan, PREPA Palo Seco, and PREPA Aguirre facilities located within the NAAs.

If the EPA's determination is finalized as proposed, the Commonwealth of Puerto Rico will be required under CAA section 179(d) to submit revisions to the SIP for the San Juan and Guayama-Salinas SO_2 NAAs. The required SIP revision for each area must, among other elements, demonstrate expeditious attainment of the standards within the time period prescribed by CAA section 179(d). If the EPA's determination is finalized as proposed, the SIP revisions required under CAA section 179(d) will be due for submittal to the EPA no later

[77] *See https://www.fema.gov/disaster/4339.*

[78] *See* Jones, G., *The Future of Energy in Puerto Rico: Current Challenges and Opportunities for a Resilient Power Grid.* On Behalf of the U.S. Environmental Protection Agency, Region 2 Brownfields Program (2021/12/15), *https://www.bu.edu/rccp/files/2022/01/Energy-Resilience-in-Puerto-Rico.pdf.*

[79] *See* U.S. Energy Information Administration, ''Puerto Rico, Territory Profile and Energy Estimates,'' *available at https://www.eia.gov/state/?sid=RQ#:~:text=Puerto%20Rico%27s%20reliance%20on%20petroleum,* fired%20power%20plant and *https://www.eia.gov/electricity/annual/html/epa_02_10.html.*

[80] *See* U.S. Energy Information Administration, ''State Energy Profiles, Puerto Rico,'' *available at https://www.eia.gov/beta/states/states/RQ/data.*

[81] *See https://www.epa.gov/diesel-fuel-standards/diesel-fuel-standards-and-rulemakings.*

[82] *See* docket for projected SO_2 emission reductions.

than one year after the publication date of the final action notice.

Second, the EPA proposes to approve certain but not all elements of Puerto Rico's SIP submission, submitted to the EPA by the PRDNER on November 22, 2022. Specifically, the EPA is proposing to approve the following elements for compliance with the requirements of section 172(c) of the CAA: Puerto Rico's NNSR program, the base year emissions inventory, and to affirm that the NNSR requirements for the NAAs have been met. If finalized, this action would incorporate RCAP amendments under Rules 102 and 210 into Puerto Rico's approved and federally enforceable SIP.

The EPA is not proposing action on other remaining elements within Puerto Rico's November 22, 2022 submission, as a result of the anticipated revisions to the SIP, which Puerto Rico would be required to submit within one year of the publication date of the final action pursuant to CAA section 179(d), should the EPA finalize its determination that the areas failed to meet the attainment date of April 9, 2023. The EPA is therefore not proposing action on the PRDNER's attainment demonstration, contingency measures, RACM/RACT and emission limitations necessary for attainment, as well as the requirements for meeting RFP toward attainment of the NAAQS.

Additionally, the EPA proposes to approve, in part, and conditionally approve, in part, and not for compliance with the CAA section 172(c) requirements, specific amendments to Rule 425 of Puerto Rico's RCAP, which include control measures, emission limitations, and reporting requirements for sources in the NAAs. Specifically, the EPA is proposing to approve for SIP-strengthening, the following sections of Rule 425: Section I, ''Applicability;'' Section IV, ''Emission Limitations for San Juan and Guayama-Salinas Non-Attainment Areas;'' Section V, ''Measurement methods and procedures,'' Subsections (A), (B), and (E); and Section VI, ''Contingency Measures.'' Moreover, the EPA is proposing to conditionally approve Section II, ''Emission Limitations for PREPA San Juan and PREPA Palo Seco,'' Subsection (A), Section III, ''Emission Limitations for PREPA Aguirre,'' Subsection (A), Section V, ''Measurement methods and procedures,'' Subsections (C), (D), and (F).

The EPA is soliciting public comments on this proposed action. The EPA will accept comments from the public on this proposal for the next 60 days and will consider these comments before taking final action.

XI. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule, regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Puerto Rico's RCAP, Rule 102, ''Definitions,'' and Rule 210, ''Non-Attainment Provisions,'' as well as portions of Rule 425, ''Provisions for SO_2 Non-Attainment Areas,'' with a State/commonwealth effective date of November 21, 2022, and as described in Sections VI through VIII of this preamble.

Specifically, the EPA is proposing to incorporate by reference the following sections of Rule 425: Section I, ''Applicability''; Section II, ''Emission Limitations for PREPA San Juan and PREPA Palo Seco,'' Subsection (A); Section III, ''Emission Limitations for PREPA Aguirre,'' Subsection (A); Section IV, ''Emission Limitations for San Juan and Guayama-Salinas Non-Attainment Areas;'' Section V, ''Measurement methods and procedures;'' and Section VI, ''Contingency Measures.'' These documents are available in the docket of this rulemaking through *www.regulations.gov.*

XII. Statutory and Executive Order Reviews

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

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

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by State law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by State/commonwealth law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C.1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by State/commonwealth law. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the Sates, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have Tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction and will not impose substantial direct costs on Tribal governments or preempt Tribal law. Thus, Executive Order 13175 does not apply in this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by State/commonwealth law.

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

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

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities

unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

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

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 minority populations and low-income populations to the greatest extent practicable and permitted by law. The 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.'' The 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.''

The PRDNER did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. Consistent with the EPA's discretion under the CAA, the EPA evaluated the environmental justice considerations of this action, as is described above in the section titled, ''Environmental Justice Considerations.'' The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, and not as a basis of the 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. In addition, there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for communities with environmental justice concerns.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

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

Lisa Garcia,

Regional Administrator, Region 2.

[FR Doc. 2024–22466 Filed 9–30–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 281 and 282

[EPA–R04–UST–2024–0279; FRL–12181–01–R4]

North Carolina: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of North Carolina (North Carolina) has applied to the Environmental Protection Agency (EPA) for final approval of revisions to its Underground Storage Tank Program (UST Program) under subtitle I of the Resource Conservation and Recovery Act (RCRA). Pursuant to RCRA, the EPA is proposing to approve revisions to North Carolina's UST Program. This action is based on the EPA's determination that the State's revisions satisfy all requirements for UST program approval. This action also proposes to codify North Carolina's revised UST Program and to incorporate by reference the State statutes and regulations that we have determined meet the requirements for approval.

DATES: Comments on this proposed rule must be received on or before November 1, 2024.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–R04–UST–2024–0279, by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- *Email: giri.upendra@epa.gov.* Include the Docket ID No. EPA–R04–UST–2024–0279 in the subject line of the message.

Instructions: Submit your comments, identified by Docket ID No. EPA–R04–UST–2024–0279, via the Federal eRulemaking Portal at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *https://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 whose disclosure 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/commenting-epa-dockets.*

The EPA encourages electronic submittals and lists all publicly available docket materials electronically at *https://www.regulations.gov.* If you are unable to make electronic submittals or require alternative access to docket materials, please contact Upendra Giri, the contact listed in the **FOR FURTHER INFORMATION CONTACT** provision below. The index of the docket and all publicly available docket materials for this action are available for review at *https://www.regulations.gov.*

Please also contact Upendra Giri 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 on EPA Docket Center services, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Upendra Giri, RCRA Programs and Cleanup Branch, Land, Chemicals, and Redevelopment Division, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; Phone number: (404) 562–8185, email address: *giri.upendra@epa.gov.* Please contact Upendra Giri by phone or email for further information.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Parts 281 and 282

Environmental protection, Administrative practice and procedure, Hazardous substances, Incorporation by reference, Indian country, Petroleum, Reporting and recordkeeping requirements, State program approval, Underground storage tanks.

Authority: This document is issued under the authority of sections 2002(a), 9004, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Dated: September 25, 2024.

Jeaneanne M. Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024–22540 Filed 9–30–24; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

48 CFR Parts 3025 and 3052

[Docket No. DHS–2024–0020]

RIN 1601–AB15

Homeland Security Acquisition Regulation, Make Personal Protective Equipment in America Act Restrictions on Foreign Acquisition (HSAR Case 2024–003)

AGENCY: Office of the Chief Procurement Officer (OCPO), Department of Homeland Security (DHS).

ACTION: Proposed rule.

SUMMARY: DHS is proposing to amend the Homeland Security Acquisition Regulation (HSAR) to add a new subpart, clause, and provision that would codify how DHS complies with the requirements of the Make Personal Protective Equipment (PPE) in America Act. DHS believes these proposed changes would help to ensure the sustainment and expansion of domestic manufacturing for certain types of PPE critical to the United States' national response to a public health crisis, such as the COVID–19 pandemic.

DATES: Comments on the proposed rule should be submitted in writing to one of the addresses shown below on or before December 2, 2024, to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by HSAR Case 2024–003, Make PPE in America Act Restrictions on Foreign Acquisition, using any of the following methods:

- *Regulations.gov: https://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by entering ''HSAR Case 2024–003'' under the heading ''Enter Keyword or ID'' and select ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''HSAR Case 2024–003.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''HSAR Case 2024–003'' on your attached document.

- *Fax:* (202) 447–0520.
- *Mail:* Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, ATTN: Ms. Shaundra Ford, 245 Murray Drive, Bldg. 410 (RDS), Washington, DC 20528.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Shaundra Ford, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, at (202) 282–8000 or email at *HSAR@hq.dhs.gov.* Include HSAR Case 2024–003 in the subject line.

SUPPLEMENTARY INFORMATION:

I. Background

The Buy American Act of 1933, as amended (BAA), addresses preferences in Federal procurement.[1] The BAA provides a preference for the purchase of domestic supplies.[2]

On November 15, 2021, the Infrastructure Investment and Jobs Act was signed into law.[3] Subtitle C of title IX of Division G of the Infrastructure Investment and Jobs Act is the Make PPE in America Act (''the Act'').[4] The Act requires the Department of Homeland Security (DHS), Department of Veterans Affairs (VA), and the U.S. Department of Health and Human Services (HHS) to take certain actions to ensure the sustainment and expansion of domestic manufacturing for certain types of PPE critical to the United States' national response to a public health crisis, such as the COVID–19 pandemic.[5]

The Act defines PPE as surgical masks, respirator masks and powered air purifying respirators and required filters, face shields and protective eyewear, gloves, disposable and reusable surgical and isolation gowns, head and foot coverings, and other gear or clothing used to protect an individual from the transmission of disease.[6] The Act requires that any contracts for the procurement of PPE entered into by DHS, VA, and HHS be for PPE, including the materials and components thereof, that is domestically grown, reprocessed, reused, or produced.[7] The Act also requires that these contracts with DHS, HHS, or VA for PPE last at least two years in duration plus all option periods necessary, to incentivize investment in the domestic production of PPE and the materials and components thereof.[8] The Act allows for alternatives to domestic production under certain conditions (*i.e.,* where PPE assembled outside of the United States contains only materials and components grown, reprocessed, reused or produced in the United States).[9] When using alternatives to domestic production, DHS, HHS, or VA, as applicable, must certify every 120 days that alternatives to domestic production are necessary to procure PPE due to the immediate needs of a public health emergency.[10] The Act further recognizes certain exceptions to the domestic production of PPE, such as due to nonavailability, or where the PPE cannot be procured at U.S. market prices.[11] Where DHS, HHS, or VA respectively grants an exception, that Secretary would also need to certify that implementing these exceptions are necessary to meet the immediate needs of a public health emergency.[12]

The DHS Chief Procurement Officer can issue HSAR deviations when necessary to allow Components to deviate from the HSAR.[13] On October 17, 2022, DHS issued a deviation regarding how DHS would comply with the Make PPE in America Act requirements (Deviation 23–01). [14]

DHS proposes to amend the HSAR at 48 CFR part 3025, Foreign Acquisition, and at 48 CFR part 3052, Solicitation

[1] *See* 41 U.S.C. 8301–8305.

[2] *See e.g.,* 41 U.S.C. 8302.

[3] Infrastructure Investment and Jobs Act, Public Law 117–58, 135 Stat. 429 (2021).

[4] Make PPE in America Act, Public Law 117–58, div. G, title IX, subtitle C, sections 70951–70953, 135 Stat. 1312–1316. The Make PPE in America Act is codified in 41 U.S.C. 8301 note.

[5] Public Law 117–58, 135 Stat. 1312.

[6] Public Law 117–58, 135 Stat. 1313.

[7] Public Law. 117–58, 135 Stat. 1313–14.

[8] Public Law 117–58, 135 Stat. 1314.

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *See* HSAR Deviations, available at: *https://www.dhs.gov/publication/current-hsar-deviations.*

[14] See HSAR Class Deviation 23–01 *Implementation of the Make PPE in America Act* at *https://www.dhs.gov/sites/default/files/2022-10/HSARClassDeviation23-01ImplementationofMakePPEinAmericaAct-508Final.pdf.*

Provisions and Contract Clauses, to reflect the requirements of the Act.

II. Discussion

DHS is proposing to add a new HSAR subpart, add an HSAR clause, and add an HSAR provision to codify how DHS complies with the Act. These proposed changes would also be consistent with Deviation 23–01. Each of these proposed changes is described in detail in the following paragraphs.

DHS is proposing to add new subpart 3025.71, Make PPE in America Act Restrictions on Foreign Acquisition, to the HSAR. This would codify the restrictions in Deviation 23–01 applicable to the acquisition of certain PPE consistent with the Act. These restrictions include minimum time periods for contract duration, content requirements for certain PPE, alternatives to domestic production when conforming PPE is not available, and exceptions when conforming PPE is either nonavailable or cannot be procured at U.S. market prices (or in other words, only available at an unreasonable cost). This rule also proposes to codify the definitions of terms used in Deviation 23–01.[15] These terms are ''component,'' ''domestic personal protective equipment,'' ''foreign-assembled domestic personal protective equipment,'' ''foreign personal protective equipment,'' ''personal protective equipment,'' and ''United States.''

HSAR 3025.7102–1 would apply to all types of actions, orders, option exercises, and contracts awarded and administered by DHS. It would require contracting officers to purchase domestic PPE except for certain exceptions specified in HSAR 3025.7102–2 and would require that any contract for PPE have a base period of performance of at least two years, plus option periods.

HSAR 3025.7102–2 proposes to codify the conditions under which acquisitions of PPE, or component thereof, would be excepted from the requirements of HSAR 3025.7102–1 (*i.e.,* alternatives to domestic production, nonavailability, and unreasonable cost) consistent with Deviation 23–01.

Deviation 23–01 lists the clauses and provisions that apply when an exception due to nonavailability or unreasonable cost is used, clarifying that contracting officers still need to comply with applicable laws and regulations.[16] This rule proposes to codify these clauses and provisions.[17] DHS believes this approach maximizes the use of Made in America laws [18] by defaulting to a Buy American-compliant or Trade Agreements Act-compliant item, depending on the dollar value of the procurement, when both domestic PPE and foreign-assembled domestic PPE cannot be acquired.

HSAR 3025.7103 proposes one provision and one contract clause. DHS is proposing to add HSAR clause 3052.225–7X, Make PPE in America, and HSAR provision HSAR 3052.225–7Y, Make PPE in America Certificate. The clause codifies Deviation 23–01 which requires contractors to deliver only domestic PPE, identify in the provision if foreign-assembled domestic PPE is being provided, and identifies the order of precedence for the Buy American statute and the Trade Agreements Act when neither domestic PPE nor foreign-assembled domestic PPE are available due to nonavailability or unreasonable cost. Regarding the provision, Deviation 23–01 also requires contractors to identify any foreign-assembled domestic PPE being offered to the Department and the country where it was assembled. This proposed rule would codify this clause and provision.[19]

III. Regulatory Analyses

A. Executive Orders 12866, 13563, and 14094

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

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

Background

During the COVID–19 pandemic, the United States encountered challenges obtaining PPE in adequate amounts to address the urgent public health and safety need. This was in part due to an unprecedented increase in demand for PPE and challenges in the supply chain. Before the COVID–19 pandemic, domestic production of PPE was limited and most PPE used in the United States was predominantly imported.[20] The COVID–19 pandemic exposed the vulnerability of the United States PPE supply chains and lack of domestic PPE production.[21] To help address the need for domestically produced PPE, between March 2020 to September 2021, the U.S. Government invested approximately $957.5 million into expansion of domestic PPE production.[22] These federally-funded projects expanded an existing domestic industrial base to meet surging demand during the pandemic.

On November 15, 2021, the Infrastructure Investment and Jobs Act (Pub. L. 117–58), was signed into law and included the Act. Congress enacted this legislation to sustain domestic demand in PPE manufacturing, support the continuity of domestic PPE material sourcing and manufacturing, and reduce the U.S.'s dependence on foreign-produced PPE. Congress took this action to reduce the vulnerabilities from future pandemic supply chain challenges and to address national security concerns on foreign dependence of critical supplies.

On October 17, 2022, DHS issued Deviation 23–01 to comply with the Act's requirements. Under Deviation 23–01, solicitations for PPE released on or after February 14, 2022, or contracts awarded on or after February 14, 2022, were subject to the Act's requirements. Since issuance of Deviation 23–01, DHS Components have incorporated the domestic sourcing and production requirements for PPE in solicitations and contracts, as required by the Act.

[15] *See proposed* 48 CFR 3025.7101.

[16] *See proposed* 48 CFR 3025.7102–3.

[17] *See proposed* 48 CFR 3025.7102–3.

[18] Made in America Laws means all statutes, regulations, rules, and Executive orders relating to Federal financial assistance awards or Federal procurement, including those that refer to ''Buy America'' or ''Buy American,'' that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured goods offered in the United States. Made in America Laws include laws requiring domestic preference for maritime transport, including the Merchant Marine Act of 1920 (Pub. L. 66–261), also known as the Jones Act. (See sec. 2, paragraph (b) of Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers.*

[19] *See proposed* 48 CFR 3025.7103.

[20] Congressional Research Service (CRS), *COVID–19 and Domestic PPE Production and Distribution: Issues and Policy Options.* 5–6. (Dec. 7, 2020) (accessible at *https://crsreports.congress.gov/product/pdf/R/R46628*).

[21] Public Law 117–58, 135 Stat. 1312.

[22] Government Accountability Office (GAO), *Agencies Are Taking Steps to Improve Future Use of Defense Production Act Authorities* (GAO–22–105380), 1, 10 (Dec.16, 2021) (accessible at *https://www.gao.gov/products/gao-22-105380*).

DHS has largely transitioned to wholly domestically sourced and manufactured PPE items except for nitrile gloves. The challenges with acquiring nitrile gloves that comply with the Act are two-fold: (1) the domestic nonavailability of nitrile butadiene rubber (NBR) at the required quality and quantity to meet demand and (2) specific to DHS, insufficient domestic manufacturing capacity of nitrile gloves that can successfully pass Departmental testing requirements for interference with explosives detection equipment.[23] Therefore, prior to publication of this proposed rule, DHS procurements and subsequent contracts for PPE already complied with the Act's requirement through the issuance of Deviation 23–01. In the following table, DHS estimated the total awarded amount for PPE procurement in Fiscal Years (FY) 2017 through 2023. DHS used data from Federal Procurement Data System[24] and filtered for specific product codes that were most likely to include covered PPE.[25] Table 1 displays the total award amount DHS spent, adjusted to 2023 dollars, on PPE and distribution of awards spent on domestic versus foreign manufacturers.

TABLE 1—DHS PROCUREMENT OF PPE AWARD AMOUNTS

[$2023] [1]

Fiscal year (FY)	Total annual DHS PPE award amount	Total annual DHS PPE award amount domestic	Total annual DHS PPE award amount foreign	Total annual DHS PPE award percentage domestic	Total annual DHS PPE award percentage foreign
2017	$11,586,965	$11,542,312	$44,654	99.61	0.39
2018	7,130,580	7,071,960	58,620	99.18	0.82
2019	6,247,764	6,247,764	0	100.00	0.00
2020	1,534,234,102	506,314,364	1,027,919,738	33.00	67.00
2021	128,945,552	25,025,686	103,919,866	19.41	80.59
2022	132,875	132,875	0	100.00	0.00
2023	6,549,382	6,549,382	0	100.00	0.00

[1] Bureau of Economic Analysis, Table 1.1.9. Implicit Price Deflators for Nondurable Goods, [Index numbers, 2017 = 100], Annual data from 1929 to 2023; data published March 28, 2024.

Need for the Proposed Rule

This proposed rule would codify the requirements as set forth in the Act and Deviation 23–01. DHS proposes this update to the Homeland Security Acquisition Regulation (HSAR) to align with current DHS practice in Deviation 23–01. This proposed rule would provide for consistency between the Act and the HSAR.

Benefits and Costs of the Proposed Rule

The benefits and costs of a regulation are generally measured against a no-action baseline, which is a reasonable forecast of the way the world would look absent the regulatory action being assessed.[26] As the proposed rule would align the regulations with DHS current practice, it would not result in additional costs for the Federal Government. The proposed rule would codify the requirement for contactors to submit a Make PPE in America Certificate, only in the situation when the contractor is proposing foreign-assembled domestic PPE. DHS already included this contractor requirement to certify compliance in Deviation 23–01. Because DHS contractors already comply with Deviation 23–01, they would not incur new costs due to this proposed rule.

However, Deviation 23–01, which is how DHS complies with the requirements of the Act, may cause DHS to incur additional costs in the form of higher prices for domestically produced PPE compared to foreign-produced PPE. Future DHS procurement price differences between domestic and foreign-sourced PPE are difficult to accurately estimate. External factors (outside of the Act's requirement) may influence prices. For example, U.S. Government investments in domestic PPE production could factor into domestic production costs and prices. There is uncertainty on foreign governments investment in foreign PPE production which would impact foreign prices. An analysis of PPE would have to be conducted by type of PPE, such as the domestic and foreign prices of masks, protective eyewear, or gloves. Further, DHS has specific requirements in certain procurements such as gloves (*i.e.,* testing for interference with explosive equipment and protection against Fentanyl exposure) that would need to be considered in any price comparisons.[27] Another factor that would be difficult to address in direct price comparisons is product differences. There are no internationally agreed upon guidelines or standards of what specific products make up PPE categories, complicating product comparisons.[28]

Consequently, due to the lack of specific data, complexity of various factors, and uncertainty of external price influences, DHS is not able to estimate the long-run additional DHS cost of an increased shift to domestic PPE procurements due to the requirements of the Act. Importantly, DHS has already complied with the requirements of the

[23] DHS, *Special Notice to Industry on Developments per the Make PPE in America Act,* 1, 1 (Dec. 16, 2023) (accessible at *https://sam.gov/opp/45a5c9581d864342a983dc9184c2c77d/view*).

[24] The Federal Procurement Data System (FPDS) is a centralized site for U.S. Government-wide procurement data. FPDS is managed by the U.S. General Services Administration, and it contains detailed information on Federal procurements over the micro-purchase threshold of $10,000 (this threshold has increased over time). DHS retrieved FPDS Report via the *SAM.gov* Data Bank. *SAM.gov* reports support analysis of the Federal award lifecycle.

[25] DHS filtered for product codes 6516 (Medical and Surgical Instruments, Equipment, and Supplies), 6532 (Hospital and Surgical Clothing and Related Special Purpose Items), 6545 (Replenishable Field Medical Sets, Kits, and Outfits), and 8415 (Clothing, Special Purpose).

[26] *See* OMB Circular A–4, p, 11 (Nov. 9, 2023) (accessible at *https://www.whitehouse.gov/wp-content/uploads/2023/11/CircularA-4.pdf*).

[27] DHS, *White Paper: Current State of Personal Protective Equipment Procurement by Make PPE in America Act Covered Agencies.* 3–4 (March 13, 2024).

[28] ''For example, KN95 respirator masks- China made analogues to domestically regulated N–95 respirators- are generally not authorized as medical PPE in the United States. KN95 are authorized in many countries abroad, and received temporary (and limited) Emergency Use Authorization from the [U.S. Food and Drug Administration] FDA.'' FDA, Certain Filtering Facepiece Respirators from China May Not Provide Adequate Respiratory Protection—Letter to Health Care Providers, October 15, 2020, at *https://www.fda.gov/medical-devices/letters-health-care-providers/certain-filtering-facepiece-respirators-china-may-not-provide-adequate-respiratory-protection-letter.*

Act through Deviation 23–01 and subsequent contract changes.

Congress recognized the need for the United States to have a robust, secure, and wholly domestic PPE supply chain to safeguard public health and national security.[29] This proposed rule codifies the statutory requirements that support the sustainment of the U.S. PPE supply chain. This proposed rule would provide the clarification benefit of consistency and transparency for contractors and DHS contracting officers.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121 (Mar. 29, 1996), hereafter jointly referred to as the ''RFA,'' requires Federal agencies engaged in rulemaking to consider the economic impacts of their rules on small entities. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). This proposed rule would codify direct requirements for DHS, which DHS has already implemented through Deviation 23–01. Federal agencies are not included in the definition of small entity set forth in 5 U.S.C. 601. The proposed rule only codifies an existing requirement for contractors to submit the Make PPE in America Certificate with the PPE. Contractors currently provide the Make PPE in America Certificate in compliance with Deviation 23–01. The Make PPE in America Certificate is required only if the offeror is proposing foreign-assembled domestic PPE. DHS estimates the contractor burden based on experience from subject matter experts familiar with Deviation 23–01. DHS estimates it will take a contractor 15 minutes to identify any foreign-assembled domestic PPE items it is offering and complete the Make PPE in America Certificate. DHS assumes an estimated hourly compensation rate of $57.95 for the time burden.[30] The time burden cost per certificate would be $14.49 (15 minutes × $57.95).

Based on the estimated cost of $14.49 per certificate, DHS assumes this cost would not be a significant economic impact on a small entity affected by the proposed rule. DHS also believes that contractors generally pass along the cost of complying with DHS contracting requirements to DHS. Therefore, DHS certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) requires that DHS consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of 44 U.S.C. 3507(d), obtain approval from the OMB for each collection of information it conducts, sponsors, or requires through regulations. This proposed rule contains information collection requirements. Accordingly, DHS is updating OMB No. 1600–0005, Solicitation of Proposal Information for Award of Public Contracts.

The collection requirements for this proposed rule are nominal and based on the new provision, 3052.225–7Y, Make PPE in America Certificate.

Overview of Information Collection:

(1) *Type of Information Collection:* Modification to Existing Collection.

(2) *Title of the Form/Collection:* Solicitation of Proposal Information for Award of Public Contracts.

(3) *Agency form number, if any, and the applicable component of DHS sponsoring the collection:* No form; OCPO.

(4) *Affected public who will be asked or required to respond; as well as a brief abstract:* The affected public is business or other for-profit institutions. DHS needs the information required by provision 3052.225–7Y to assess contractor compliance with the Make PPE in America Act. Responses are required for respondents to obtain or retain benefits.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated number of respondents for reporting is 0.08. This number is nominal because a response to this provision is required only if the offeror is proposing foreign-assembled domestic PPE. Such response should be rare, because the offeror of such products is unlikely to receive an award, unless no offers for domestic PPE are received. In Fiscal Year (FY) 2022, DHS awarded 8 contracts for domestic PPE. DHS estimates it will receive ten offers per solicitation. Using the number of contracts awarded in FY 2022, DHS estimates it received 80 offers. DHS estimates 0.2 percent of offers, or 0.16 responses, will include foreign-assembled domestic protective equipment. The average number of responses per respondent is two or 0.08 respondents. DHS estimates it will take each respondent 15 minutes to complete the certificate. These numbers are not unusual given that DHS awarded a mandatory for use, Departmentwide contract for domestic PPE in March of 2022 and the requirements of provision 3052.225–7Y Make PPE in America Certificate were satisfied at the contract level. Standalone contracts are awarded only when the domestic PPE needed is not available under the Departmentwide contract.

(6) *An estimate of the total public burden (in hours) associated with the information collection:* The total estimated annual hour burden associated with this collection is 0.033 hours or 2 minutes.

(7) *An estimate of the total public burden (in cost) associated with the information collection:* The estimated total annual cost burden associated with this collection of information is $2.32.

D. National Environmental Policy Act

Section 102 of the National Environmental Policy Act of 1969 (NEPA), Public Law 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*), as amended, requires Federal agencies to evaluate the impacts of a proposed major Federal action that may significantly affect the human environment, consider alternatives to the proposed action, provide public notice and opportunity to comment, and properly document its analysis. DHS and its agency components analyze proposed actions to determine whether NEPA applies to them and, if so, what level of documentation and analysis is required.

DHS Directive 023–01, Rev. 01 and DHS Instruction Manual 023–01–001–01, Rev. 01 (Instruction Manual) establish the policies and procedures DHS and its component agencies use to comply with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA codified in 40 CFR parts 1500 through 1508. The CEQ regulations allow Federal agencies to establish, in their implementing procedures, with CEQ review and concurrence, categories of actions (''categorical exclusions'') that experience has shown do not, individually or in the aggregate, have a significant effect on the human

[29] Public Law 117–58, 135 Stat. 1313.

[30] The average hourly earnings are based upon the U.S. Department of Labor, Bureau of Labor Statistics' website (*www.bls.gov*). The wage rate category selected is for Business and Financial Operations Occupations, May 2022. The rate is estimated to be $57.95 ($41.39 × 1.4), which includes the wage rate multiplier.

environment and, therefore, do not require preparation of an environmental assessment or environmental impact statement. 40 CFR 1501.4, 1507.3(c)(8). Appendix A of the Instruction Manual lists the DHS categorical exclusions.

Under DHS NEPA implementing procedures, for an action to be categorically excluded, it must satisfy each of the following three conditions: (1) the entire action clearly fits within one or more categorical exclusions; (2) the action is not a piece of a larger action; and (3) no extraordinary circumstances exist that create the potential for a significant environmental effect.

The proposed rule, if finalized, would amend the HSAR to better clarify how DHS complies with the Make PPE in America Act. This would include codifying Deviation 23–01 that is currently in effect. DHS is not aware of any significant impact on the environment, or any change in environmental effect that will result from this proposed rule. DHS finds promulgation of the rule clearly fits within categorical exclusion A3, established in the Department's NEPA implementing procedures.

This proposed rule is a standalone rule and is not part of any larger action. This proposed rule would not result in any major Federal action that would significantly affect the quality of the human environment. Furthermore, DHS has determined that no extraordinary circumstances exist that would create the potential for significant environmental effects. Therefore, this proposed rule is categorically excluded from further NEPA review and documentation.

List of Subjects in 48 CFR Parts 3025 and 3052

Government procurement.

Accordingly, for the reasons set forth in the preamble, DHS proposes to amend 48 CFR parts 3025 and 3052 as follows:

PART 3025—FOREIGN ACQUISITION

■ 1. The authority citation for part 3025 is revised to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, 41 U.S.C. 8301 note, 48 CFR part 1, subpart 1.3, DHS Delegation No. 00701, Revision No. 03.2, paragraphs (III)(H), and DHS Delegation No. 00702, Revision No. 01.2, paragraphs (III)(M).

■ 2. Add subpart 3025.71 to read as follows:

Subpart 3025.71—Make PPE in America Act Restrictions on Foreign Acquisition

Sec.

3025.7100 Scope of subpart.

This subpart contains restrictions on the acquisition of certain personal protective equipment (PPE) imposed by the Make PPE in America Act (Pub. L. 117–58) and they apply to all types of actions, orders, option exercises, and contracts entered into on or after February 14, 2022.

3025.7101 Definitions.

As used in this subpart—

(a) *Component,* as applied to an item described in 3025.7102–1, means an article, material, or supply incorporated directly into an item of personal protective equipment.

(b) *Domestic personal protective equipment,* as applied to an item described in 3025.7102–1, means personal protective equipment, including the materials and components thereof, that is grown, reprocessed, reused, or produced in the United States.

(c) *Foreign-assembled domestic personal protective equipment,* as applied to an item described in 3025.7102–2, means personal protective equipment that is assembled outside the United States containing only materials and components that are grown, reprocessed, reused, or produced in the United States.

(d) *Foreign personal protective equipment* means personal protective equipment other than domestic personal protective equipment or foreign-assembled domestic personal protective equipment.

(e) *Personal protective equipment,* as applied to an item described in 3025.7102–1, means surgical masks, respirator masks and powered air purifying respirators and required filters, face shields and protective eyewear, gloves, disposable and reusable surgical and isolation gowns, head and foot coverings, and other gear or clothing used to protect an individual from the transmission of disease.

(f) *United States,* as applied to an item described in 3025.7102–1, means the 50 States, the District of Columbia, and the possessions of the United States.

3025.7102 Restrictions on certain personal protective equipment.

3025.7102–1 Restrictions.

The following restrictions implement section 70953 of the Make PPE in America Act, and they apply to all types of actions, orders, option exercises, and contracts.

(a) Except as provided in 3025.7102–2, contracting officers shall purchase domestic personal protective equipment.

(b) Any contract for personal protective equipment shall have a base period of performance of at least 2 years, plus all option periods.

3025.7102–2 Exceptions.

Acquisitions in the following categories are not subject to the restrictions in 3025.7102–1:

(a) Acquisitions of an item of personal protective equipment, or component thereof, otherwise covered by 3025.7102–1 when the DHS Chief Procurement Officer:

(1) Maximizes sources for foreign-assembled domestic personal protective equipment; and

(2) Certifies every 120 days that it is necessary to procure personal protective equipment under alternative procedures to respond to the immediate needs of a public health emergency.

(b) Acquisitions of an item of personal protective equipment, or component thereof, including those described in paragraph (a) of this section—

(1) That is, or that includes, a material listed in FAR 25.104 as one for which a nonavailability determination has been made; or

(2) As to which the Chief Procurement Officer determines that a sufficient quantity of a satisfactory quality that is grown, reprocessed, reused, or produced in the United States cannot be procured as, and when, needed at United States market prices; and

(3) The Chief Procurement Officer certifies every 120 days that it is necessary to procure personal protective equipment to respond to the immediate needs of a public health emergency.

(c) When either of the exceptions in paragraph (a) or (b) of this section are used:

(1) Only the DHS Chief Procurement Officer is authorized to make the certification in paragraphs (a)(2) and (b)(3) of this section or the nonavailability or unreasonable cost determination in paragraph (b) of this section.

(2) The supporting documentation for the DHS Chief Procurement Officer shall

be prepared by the DHS Component(s) and:

(i) For the certification in paragraphs (a)(2) and (b)(3) of this section:

(A) Include a written justification documenting the immediate public health emergency requiring use of alternative procedures; and

(B) Be concurred on by the Head of the Contracting Activity before submission to the Chief Procurement Officer.

(ii) For the nonavailability or unreasonable cost determination in paragraph (b) of this section:

(A) Include a written justification documenting why a nonavailability or unreasonable cost exception is required; and

(B) Be concurred on by the Head of the Contracting Activity before submission to the Chief Procurement Officer.

3025.7102–3 Specific application of the Buy American Act and Trade Agreements Act.

In the event the DHS Chief Procurement Officer determines neither domestic personal protective equipment nor foreign-assembled domestic personal protective equipment is available due to nonavailability or unreasonable cost, contracting officers shall apply one of the following:

(a) The clause at FAR 52.225–1, Buy American—Supplies, and the provision at FAR 52.225–2, Buy American Certificate;

(b) The clause at FAR 52.225–3, Buy American—Free Trade Agreements—Israeli Trade Act, and the provision at FAR 52.225–4, Buy American—Free Trade Agreements—Israeli Trade Act Certificate; or

(c) The clause at FAR 52.225–5, Trade Agreements, and the provision at FAR 52.225–6, Trade Agreements Certificate, as applicable.

3025.7103 Solicitation provisions and contract clauses.

(a) Insert the clause at 3052.225–7X, Make PPE in America, in solicitations and contracts, regardless of dollar value, when procuring any item covered under 3025.7102–1(a).

(b) Insert the provision at 3052.225–7Y, Make PPE in America Certificate, in solicitations containing the clause at 3052.225–7X.

PART 3052—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. The authority citation for part 3052 is revised to read as follows:

Authority: 5 U.S.C. 301–302, 41 U.S.C. 1303, 41 U.S.C. 1707, 41 U.S.C. 1702, 41 U.S.C. 8301 note, 48 CFR part 1, subpart 1.3, DHS Delegation No. 00701, Revision No. 03.2, paragraphs (III)(H), and DHS Delegation No. 00702, Revision No. 01.2, paragraphs (III)(M).

■ 4. Add section 3052.225–7X to read as follows:

3052.225–7X Make PPE in America.

As prescribed in 3025.7103(a), insert the following clause:

Make PPE in America (DATE)

(a) *Definitions.* As used in this clause—

Component, as applied to an item described in paragraph (b) of this clause, means an article, material, or supply incorporated directly into personal protective equipment.

Domestic personal protective equipment, as applied to an item described in paragraph (b) of this clause, means personal protective equipment, including the materials and components thereof, that is grown, reprocessed, reused, or produced in the United States.

Foreign-assembled domestic personal protective equipment, as applied to an item described in paragraph (b) of this clause, means personal protective equipment that is assembled outside the United States containing only materials and components that are grown, reprocessed, reused, or produced in the United States.

Foreign personal protective equipment means personal protective equipment other than domestic personal protective equipment or foreign-assembled domestic personal protective equipment.

Personal protective equipment, as applied to an item described in paragraph (b) of this clause, means surgical masks, respirator masks and powered air purifying respirators and required filters, face shields and protective eyewear, gloves, disposable and reusable surgical and isolation gowns, head and foot coverings, and other gear or clothing used to protect an individual from the transmission of disease.

United States, as applied to an item described in paragraph (b) of this clause, means the 50 States, the District of Columbia, and the possessions of the United States.

(b) The Contractor shall deliver only domestic personal protective equipment except to the extent that it specified delivery of foreign-assembled domestic personal protective equipment in the provision of the solicitation entitled ''Make PPE in America Certificate.''

(c) *Order of Precedence.* In the event the Department of Homeland Security determines neither domestic personal protective equipment nor foreign-assembled domestic personal protective equipment are available due to nonavailability or unreasonable cost, the Contractor shall comply with the clauses at Federal Acquisition Regulation (FAR) 52.225–1 Buy American—Supplies or 52.225–3 Buy American—Free Trade Agreements—Israeli Trade Act and the provisions at FAR 52.225–2 Buy American Certificate or 52.225–4 Buy American—Free Trade Agreements—Israeli Trade Act Certificate or the clause at FAR 52.225–5 Trade Agreements and the provision at FAR 52.225–6 Trade Agreements Certificate, as applicable.

(End of clause)

■ 5. Add section 3052.225–7Y to read as follows:

3052.225–7Y Make PPE in America Certificate.

As prescribed in 3025.7103(b), insert the following provision:

Make PPE in America Certificate (DATE)

(a)(1) The Offeror certifies that each item of personal protective equipment, except those listed in paragraph (b) of this provision, is domestic personal protective equipment.

(2) The Offeror shall list foreign-assembled domestic personal protective equipment items.

(3) The terms ''domestic personal protective equipment,'' ''foreign-assembled domestic personal protective equipment,'' ''foreign personal protective equipment,'' and ''personal protective equipment,'' are defined in the clause of this solicitation entitled ''Make PPE in America.''

(b) Foreign-assembled Domestic Personal Protective Equipment:

Line item No.	Country of assembly

[*List as necessary*]

(c) In the event the Department of Homeland Security determines both domestic personal protective equipment and foreign-assembled domestic personal protective equipment are not available due to nonavailability or unreasonable cost, the Contractor shall comply with the clauses at Federal Acquisition Regulation (FAR) 52.225–1 Buy American—Supplies or 52.225–3 Buy American—Free Trade Agreements—Israeli Trade Act and the provisions at FAR 52.225–2 Buy American Certificate or 52.225–4 Buy American—Free Trade Agreements—Israeli Trade Act Certificate or the clause at FAR 52.225–5 Trade Agreements and the provision at FAR 52.225–6 Trade Agreements Certificate, as applicable. The contracting officer will notify offerors if a nonavailability or unreasonable cost determination is made.

(End of provision)

Paul Courtney,

Chief Procurement Officer, U.S. Department of Homeland Security.

[FR Doc. 2024–22303 Filed 9–30–24; 8:45 am]

BILLING CODE 9112–FE–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R5–ES–2024–0080; FXES111105BBFLY–245–FF05E00000]

RIN 1018–BH52

Endangered and Threatened Wildlife and Plants; Threatened Species Status With Section 4(d) Rule for Bethany Beach Firefly

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Bethany Beach firefly (*Photuris bethaniensis*), a firefly species from Delaware, Maryland, and Virginia, as a threatened species under the Endangered Species Act of 1973, as amended (Act). This determination also serves as our 12-month finding on a petition to list the Bethany Beach firefly. After a review of the best available scientific and commercial information, we find that listing the species is warranted. We also propose protective regulations issued under section 4(d) of the Act to provide for the conservation of the Bethany Beach firefly. If we finalize this rule as proposed, it would add this species to the List of Endangered and Threatened Wildlife and extend the Act's protections to the species.

DATES: We will accept comments received or postmarked on or before December 2, 2024. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by November 15, 2024.

ADDRESSES: *Written comments:* You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal:

https://www.regulations.gov. In the Search box, enter FWS–R5–ES–2024–0080, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R5–ES–2024–0080, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov*. This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: Supporting materials, such as the species status assessment report, are available at *https://www.regulations.gov* at Docket No. FWS–R5–ES–2024–0080.

FOR FURTHER INFORMATION CONTACT: Genevieve LaRouche, Field Office Supervisor, U.S. Fish and Wildlife Service, Chesapeake Bay Ecological Services Field Office, 177 Admiral Cochrane Drive, Annapolis, MD 21401; telephone 202–341–5882. 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. Please see Docket No. FWS–R5–ES–2024–0080 on *https://www.regulations.gov* for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act (16 U.S.C. 1531 *et seq.*), a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range). If we determine that a species warrants listing, we must list the species promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that the Bethany Beach firefly meets the Act's definition of a threatened species; therefore, we are proposing to list it as such. Listing a species as an endangered or threatened species can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. We propose to list the Bethany beach firefly as a threatened species with protective regulations issued under section 4(d) of the Act (a ''4(d) rule'') to provide for the conservation of the species.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

We have determined that the Bethany Beach firefly meets the Act's definition of a threatened species due to habitat loss or degradation from the following activities or conditions: under Factor A, urban development and changes in land cover, light pollution, recreational activities, pesticides, invasive plants, and shoreline erosion control (including constructed dunes and sand fencing); and under Factor E, effects of small population size, climate change which includes more frequent and increased storm intensities and high tide flooding, rising sea levels causing periodic and/or total inundation, saltwater intrusion, and increased temperatures and drought).

Section 4(a)(3) of the Act requires that the Secretary of the Interior (Secretary), to the maximum extent prudent and determinable, concurrently with listing designate critical habitat for the species. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

We have determined that critical habitat is not determinable at this time for the Bethany Beach firefly. The Act allows the Service an additional year to publish a critical habitat designation that is not determinable at the time of listing (16 U.S.C. 1533(b)(6)(C)(ii)).

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) The species' biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns and the locations of any additional populations of this species;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Threats and conservation actions affecting the species, including:

(a) Factors that may be affecting the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors;

(b) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species; and

(c) Existing regulations or conservation actions that may be addressing threats to this species.

(3) Additional information concerning the historical and current status of this species.

(4) Information to assist with applying or issuing protective regulations under section 4(d) of the Act that may be necessary and advisable to provide for the conservation of the Bethany Beach firefly. In particular, we seek information concerning:

(a) The extent to which we should include any of the Act's section 9 prohibitions in the 4(d) rule; or

(b) Whether we should consider any additional or different exceptions from the prohibitions in the 4(d) rule.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made solely on the basis of the best scientific and commercial data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *https://www.regulations.gov.*

Our final determination may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive (and, if relevant, any comments on that new information), we may conclude that the species is endangered instead of threatened, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. In addition, we may change the parameters of the prohibitions or the exceptions to those prohibitions in the protective regulations issued under section 4(d) of the Act if we conclude it is appropriate in light of comments and new information received. For example, we may expand the prohibitions if we conclude that the protective regulation as a whole, including those additional prohibitions, is necessary and advisable to provide for the conservation of the species. Conversely, we may establish additional or different exceptions to the prohibitions in the final 4(d) rule if we conclude that the activities would facilitate or are compatible with the conservation and recovery of the species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

On May 15, 2019, we received a petition from the Center for Biological Diversity (CBD) and Xerces Society for Invertebrate Conservation to list the Bethany Beach firefly as an endangered or a threatened species under the Act. In response to the petition, we published a 90-day finding on December 19, 2019 (84 FR 69713), in which we announced our finding that the petition contained substantial information indicating that listing may be warranted for the Bethany Beach firefly.

Peer Review

An SSA team prepared an SSA report for the Bethany Beach firefly. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing and recovery actions under the Act (*https://www.fws.gov/sites/default/files/documents/peer-review-policy-directors-memo-2016-08-22.pdf*), we solicited independent scientific review of the information contained in the Bethany Beach firefly SSA report. We sent the SSA report to five independent peer reviewers and received three responses. Results of this structured peer review process can be

found at *https://www.regulations.gov.* In preparing this proposed rule, we incorporated the results of these reviews, as appropriate, into the SSA report, which is the foundation for this proposed rule.

Summary of Peer Reviewer Comments

As discussed in Peer Review above, we received comments from three peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the contents of the SSA report. The peer reviewers generally concurred with our methods and conclusions, and they provided additional information, clarifications, and suggestions to improve the SSA report.

I. Proposed Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of the Bethany Beach firefly (*Photuris bethaniensis*) is presented in the SSA report (version 1.0; Service 2024, pp. 4–16). There are at least 15 current known ''populations'' of the Bethany Beach firefly. Each population exists on a complex of swales (low-lying freshwater marsh areas near coastal dunes) containing at least one occupied swale. The current known range occurs along the Atlantic Coast in Delaware, Maryland, and Virginia (see figure 1, below). This species was only known from Delaware sites until discovery of Maryland populations in 2020, and Virginia populations in 2021. Additional populations may exist due to limited survey efforts. It is possible that the species occurs in additional swales or complexes, or on additional properties (*e.g.,* publicly owned land), where there is similar habitat and plant communities (Edinger et al. 2014, p. 13 (New York); Breden et al. 2001, p. 109 (New Jersey); Shafale 2012, p. 185 (North Carolina); Nelson 1986, p. 26 (South Carolina)). Comparable interdunal swale habitats exist as far north as New York and as far south as South Carolina. Development of the Atlantic Coast has decreased the availability of swale habitat and the number of populations within the known current range (Delaware, Maryland, and Virginia).

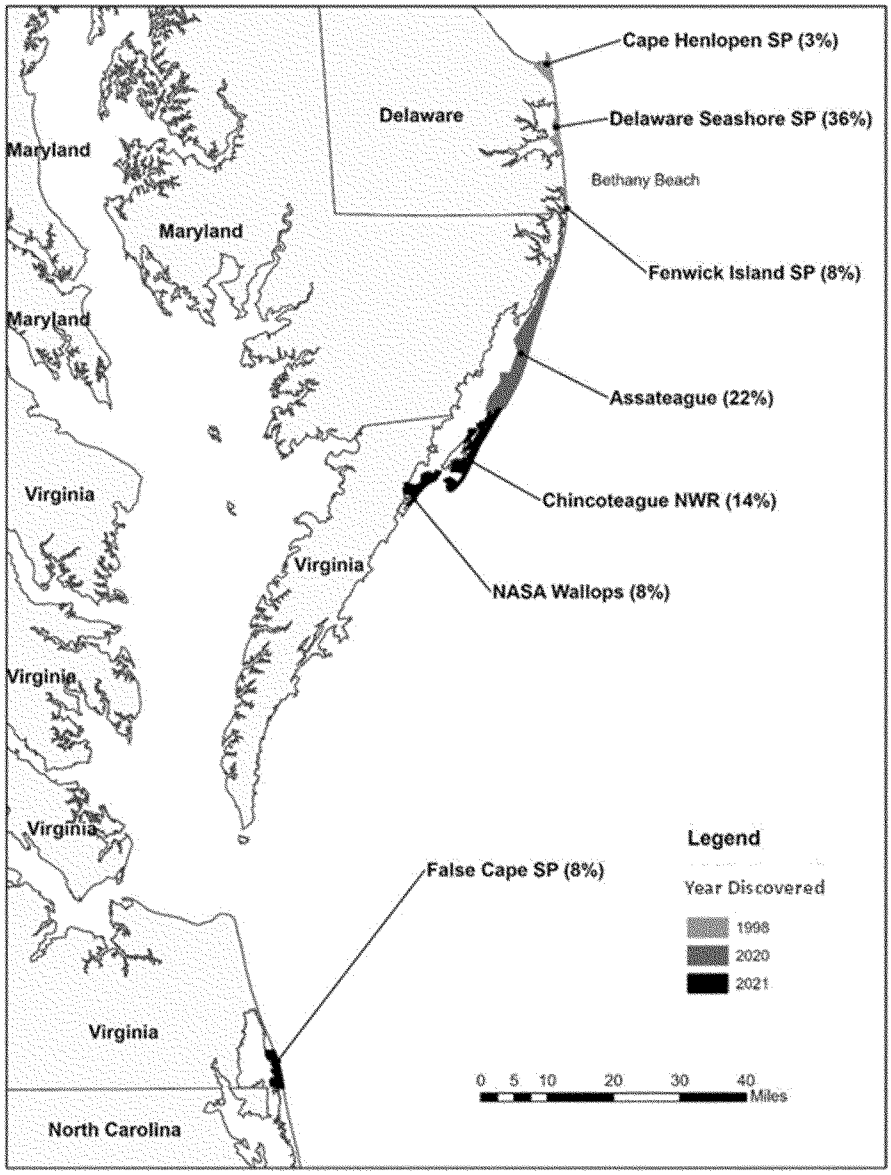

Figure 1. The seven properties across Delaware, Maryland, and Virginia where the Bethany Beach firefly occurs. The percentages after the property name refer to the percent of the rangewide occupied swales that are present on that property. Delaware populations were discovered in 1998, and Maryland and Virginia populations were discovered in 2020 and 2021, respectively.

Bethany Beach firefly is a nocturnal firefly characterized by two bright green flashes given off by males to attract females for mating, while females flash or emit a low glow in response. Like other beetles, fireflies complete metamorphosis with four distinct life stages: egg, larva, pupa, and adult. The longest stage is the larval stage (Fallon et al. 2022, p. 5, Lloyd 2018, pp. 5–7; Faust 2017, p. 39). Adult Bethany Beach fireflies are active from mid-late June through early-mid August and emerge well after sunset.

Bethany Beach fireflies occupy freshwater swales that form as groundwater and rain collect in shallow depressions between or behind coastal sand dunes. These communities are dynamic systems and are susceptible to saltwater intrusion and shifting sand formations. Water levels within the swales vary from standing water to saturated soil, and they can become flooded or dry out completely. Suitable swale habitat is dependent on an intermediate stage of succession (woody and herbaceous open swales) that is naturally driven by periodic dune overwash from storm surge.

Overall, this species requires adequate temporally stable swale habitat that typically has woody shrubs along the perimeter and that retains shallow freshwater seasonally. Moisture is needed for all of the life stages to prevent desiccation, provide food sources, and provide ample organic matter for overwintering and sheltering habitat for larvae. Sufficient population size and connectivity are needed to maintain genetic diversity and to support reproduction and recruitment within a population.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations in title 50 of the Code of Federal Regulations set forth the procedures for determining whether a species is an endangered species or a threatened species, issuing protective regulations for threatened species, and designating critical habitat for endangered and threatened species.

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

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

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

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

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

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

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

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

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; ''M-Opinion,'' available online at *https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf*). The foreseeable future extends as far into the future as the U.S. Fish and Wildlife Service and National Marine Fisheries Service (hereafter, the Services) can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent our decision on whether the species should be proposed for listing as an endangered or threatened species under the Act. However, it does provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies.

To assess the Bethany Beach firefly's viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer

and Stein 2000, pp. 306–310). Briefly, resiliency is the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years); redundancy is the ability of the species to withstand catastrophic events (for example, droughts, large pollution events); and representation is the ability of the species to adapt to both near-term and long-term changes in its physical and biological environment (for example, climate conditions, pathogens). In general, species viability will increase with increases in resiliency, redundancy, and representation (Smith et al. 2018, p. 306). Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and described the beneficial and risk factors influencing the species' viability.

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

The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket No. FWS–R5–ES–2024–0080 on *https://www.regulations.gov*.

Summary of Biological Status and Threats

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

Species Needs

The SSA report contains a detailed discussion of the Bethany Beach firefly's individual and population requirements (Service 2024, pp. 14–16); we provide a summary here. Based upon the best available scientific and commercial information, and acknowledging existing ecological uncertainties, the resource and demographic needs for breeding, feeding, sheltering, and dispersal of the Bethany Beach firefly are characterized as:

(1) Sufficient quality and availability of interdunal swale habitat with moist soil, herbaceous vegetation, woody vegetation surrounding the swales, and decaying wood to support all life stages of Bethany Beach fireflies and their food sources.

(2) Sufficient quantities of snails, worms, and other soft-bodied invertebrates, and plant material such as berries, as food sources for Bethany Beach firefly larvae.

(3) Sufficient quantities of Bethany beach firefly individual adult males and females to be able to flash to find and select mates, copulate, oviposit, and disperse.

(4) Sufficient connectivity of habitat (swales within 1,000 feet (304.8 meters) of other occupied swales) to allow Bethany beach firefly populations to repopulate each other after catastrophes such as major coastal storms. Based on observations of flight patterns of this species, we assume that swales within 305 m (1,000 feet) of each other are close enough that individuals could travel this distance and reproduction and gene flow could occur between them (Service 2024).

(5) Sufficient stable (open) swales filled with ample organic matter, which provides overwintering and sheltering habitat for Bethany Beach firefly larvae.

Bethany Beach firefly abundance depends on the availability and condition of these resources in freshwater interdunal swales in proximity to the Atlantic shoreline.

Threats

A thorough review of the threats affecting the Bethany Beach firefly is presented in chapter 4 of the SSA report (version 1.0, Service 2024, pp. 17–35). The main threats affecting the Bethany Beach firefly are related to urban development and changes in land cover, light pollution, recreational activities, pesticides, invasive plants, shoreline erosion control (including constructed dunes and sand fencing), effects of small population size, climate change which includes more frequent and increased storm intensities and high tide flooding, rising sea levels causing periodic and/or total inundation, saltwater intrusion, and increased temperatures and drought. Habitat loss, degradation, and fragmentation due to urbanization and development has caused populations to be isolated with presumably no genetic transfer among them, leaving these small populations at increased risk of impacts from random stochastic and unforeseen catastrophic events. The compounding effects of climate change include increased temperatures and drought, which could dry out swales, and increased storm frequency and intensity, which could degrade swale habitat due to excessive overwash and storm surges. Rising sea levels also pose a risk to first degrade and then remove habitat due to saltwater intrusion from swales being inundated periodically with the addition of storm surge, and then total inundation at some height above current sea levels.

Habitat Loss, Fragmentation, and Degradation

Development—Because the Bethany Beach firefly is believed to be a habitat specialist restricted to interdunal freshwater swales and likely has limited dispersal (Lewis et al. 2020, p. 159), destruction and degradation of swales result in the loss of or decline in populations and decreases connectivity between populations. Sandy ocean beaches are some of the most popular tourist and recreational areas, and constitute some of the most valuable real estate, in the United States (Hapke et al. 2011, p. 2). These Atlantic coastal areas are the sites of high-density residential and commercial development, despite the frequent natural hazards that can occur, including flooding, storm impacts, and coastal erosion. Extensive areas along the Atlantic Coast (Bethany Beach and Dewey Beach, Delaware; Ocean City, Maryland; and Virginia Beach, Virginia) likely contained additional swale habitat prior to development that primarily occurred between 1950 and 1970 after the completion of the Chesapeake Bay bridges (Delaware Department of Natural Resources and Environmental Control 2004, p. 27). There is evidence that the populations of Bethany Beach firefly in Delaware are much reduced from their historical levels. The two sites where the Bethany Beach firefly was originally observed and described by McDermott (1953, p. 35) near Bethany Beach, Delaware, have been lost to development (Lloyd 2018, p. 93). Surveys conducted from 1998 to 2000 in Delaware (Hecksher and Bartlett 2004, pp. 349–352) found the species in swales in three State parks but also in a swale located on privately owned land in the Tower Shores Beach Community (Tower Shores) (Hecksher and Bartlett 2004, pp. 349–352). The swale in Tower Shores was one of the largest-known global populations, consisting of an estimated 100 or more adults in the 1990s. The property was recently developed in 2019, and the population that was previously there is now

believed to be extirpated. In that area, an elevated roadway has altered hydrology and creates shade, while a cul-de-sac has been built over the entire swale, and lighting from the houses has degraded the surrounding area; no fireflies have been observed in surveys since construction was finished.

State laws in Delaware, Maryland, and Virginia do not prevent destruction of the swales via development. Non-tidal wetlands under 400 acres (161.87 hectares) in size are not regulated in Delaware (see the Delaware Wetlands Act, in title 7 of the Delaware Code at chapter 66, section 6603(h); and the Wetlands Regulations, in title 7 of the Delaware Administrative Code at 7502). Since many of the swales where the firefly occurs are smaller than 400 acres, the Delaware Wetlands Act does not regulate development of the swales. Non-tidal wetland laws are stronger in Maryland and Virginia, but some suitable firefly habitat that occurred historically was likely lost due to development (Ocean City, Maryland; Virginia Beach, Virginia) prior to these laws being established. The Maryland Non-Tidal Wetlands Act (1989) limits development in and around tidal wetlands (see title 5 of the Maryland Code, ''Environment,'' at section 5–907). Similarly, in Virginia, developers must obtain a water protection permit before disturbing any wetland, tidal or non-tidal, or stream by clearing, filling, excavating, draining, or ditching (see article 2.2 of the Virginia Code at section 62.1–44.15:20). Although non-tidal wetland laws are stronger in Maryland and Virginia, there is still loss of habitat when permits are issued for development. However, the significant habitat loss that occurred prior to these regulations being enacted has likely limited the Bethany Beach firefly's distribution in these States.

Bethany Beach fireflies are made more vulnerable by their populations' relative isolation from one another. Based on observations from surveys conducted for the species since 2019, we find that fireflies can disperse from occupied swales to other interdunal swales and upland areas located within 1,000 feet (Davis, J. 2023c). The known extant populations in the Delaware State Parks have connectivity within each park but not among the parks due to development of the shoreline between State parks. The Delaware State Parks are also separated from Assateague Island National Seashore due to development and open water. While Assateague Island National Seashore, Chincoteague National Wildlife Refuge, and the National Aeronautics and Space Administration's (NASA's) Wallops Island Flight Facility are in proximity to one another in Maryland and Virginia, and are not separated by developed areas, dispersal of individuals among these properties is not known to occur due to the distances of occupied swales from each other. False Cape State Park is to the south near the North Carolina/Virginia border and is not close to any other known populations of Bethany Beach fireflies. Without additional suitable habitat occurring within the dispersal distance of the species, it is unlikely that the Bethany Beach firefly could relocate if its habitat is destroyed (Lewis et al. 2020, p. 159).

Even in the parts of their range that are protected from development, Bethany Beach fireflies also face indirect impacts, such as habitat degradation. With the exception of NASA's Wallops Island Flight Facility, which does not allow public access to the shoreline, the sites in which the species is currently present occur primarily on public lands that receive high numbers of visitors for recreational use of the beaches and that border developed areas. As a result, the habitat in these areas is not pristine: the public lands themselves have significant infrastructure (such as parking lots, roads, trails, bathrooms, and visitor centers), and these parks are also adjacent to residential development at varying densities, with the highest densities occurring adjacent to the Delaware State Parks. Both in-park and adjacent development or infrastructure could destroy or degrade swales, alter swale hydrology, degrade water quality, and decrease connectivity among or between swales. Maintenance operations conducted in the past at the three Delaware State Parks may have impacted, drained, or filled in interdunal swales, notably some with populations of the Bethany Beach firefly or other firefly species of conservation concern. Several swales in which the species is present show evidence of filling, ditching, mowing, dumping, and heavy equipment use (Davis 2023d, pers. comm.).

However, impacts from development are not equally distributed among all public lands where occupied swales occur. Development is less of a threat where the species occurs in Maryland and Virginia because the density of development surrounding the properties is low. Assateague Island National Seashore is separated from the mainland of Maryland by Chincoteague Bay; therefore, it is not adjacent to any development occurring outside of the park. There is very little infrastructure (*e.g.,* lights, roads, and buildings) throughout Assateague, although there are roads and lights from a drive-in campground adjacent to one swale complex. There is also little infrastructure near the occupied swales at Chincoteague National Wildlife Refuge and False Cape State Park in Virginia, and only a two-lane road and some buildings occur adjacent to the three occupied swale complexes at NASA's Wallops Island Flight Facility. This is in contrast to Delaware, which has more infrastructure in the parks, a major highway visible from almost all of the swales running adjacent to two of the parks (Delaware Seashore State Park and Fenwick Island State Park), and a higher density of residential development surrounding the parks. However, four populations at Assateague Island National Seashore and all the populations at NASA's Wallops Island Flight Facility remain vulnerable due to altered hydrology from roads, which is evident due to the presence of the nonnative plant species *Phragmites australis* (often called *Phragmites,* or common reed) in those swales (for more information, see *Invasive Plant Species,* below).

Currently, the greatest threat of development is at Delaware Seashore State Park, where a lease granted for a desalinization project could entail directional drilling adjacent to an occupied swale and two proposed offshore wind projects (Maryland Wind and Skipjack Wind) with possible landfall locations (named ''3Rs'' and ''Tower Road'') for the cable route occurring near interdunal swales. It is anticipated that the two wind projects will be constructed within the next 10 years. It is unknown whether directional drilling has occurred at the desalinization plant at this time. For the Maryland Wind biological opinion, the project description includes avoiding land disturbance, including horizontal directional drilling, within 100 feet of any swale; a time-of-year restriction for the use of any light sources between June 1 and September 1 for any work at the 3Rs parking lot or Tower Road parking lot proposed landfall sites; and avoiding installation of permanent light fixtures at the Tower Road site. With these measures, there would be no anticipated impacts to the Bethany Beach firefly. The Service has not gone through section 7 consultation yet on Skipjack Wind.

Development can disrupt the groundwater regimes that sustain interdunal swales both directly and indirectly. Development directly affects the hydrology of swales by increasing impervious surfaces and compacting soils in adjacent areas, thereby reducing groundwater recharge and eventually

lowering the water table (Wright et al. 2006, p. 22). Indirectly, development results in depletion of groundwater by increasing the number of groundwater users in the area. A decrease in groundwater recharge will lower the water table and could result in swales becoming drier over time which could affect the ability of larvae and their prey to survive in the soil. Alteration of hydrology can also lead to an increase in invasive plants and woody vegetation, a change in herbaceous vegetation, and succession in the wetland, resulting in loss of wetland habitat over time. Development adjacent to the properties in which the Bethany Beach firefly occurs is greatest in Delaware (Delaware Seashore State Park and Fenwick Island State Park).

Stressors on groundwater supply are projected to increase in the future throughout the range of the Bethany Beach firefly. Within the U.S. Geological Survey's hydrologic unit code (HUC) 4 (HUC 4 focuses on watersheds in a subregion), in the Delaware-Mid Atlantic Coastal basin (which includes coastal areas of Delaware, Maryland, and Virginia), where a majority of the swale complexes are found, freshwater yield (from surface or ground water) is predicted to decrease by 10 percent while the demand is expected to increase 80 to 100 percent between 2046 and 2070 (when compared to a baseline from 1985–2010) (Brown et al. 2019, p. 225). Much of this is driven by climate change, and its effect on water use in multiple sectors, like agriculture (increased evapotranspiration) and energy use (increased temperatures) (Brown et al. 2019, p. 226). Demands higher than yields can result in reduced groundwater storage, which can reduce the quantity and quality of available swale habitat and decrease the resiliency of the Bethany Beach firefly.

Light Pollution—Firefly species, including the Bethany Beach firefly, rely on bioluminescent light to find mates and to ward off predators. Each species has a unique flash color, length, and frequency. Both male flash patterns and female response patterns are species-specific to prevent hybridization (Lloyd 1966, p. 65; Stanger-Hall and Lloyd 2015, in Owens et al. 2022, p. 2). Courtship dialogues are thought to be essential for mate success in nocturnal fireflies, as the males of most species are presumed not to use visual (color) or chemical (pheromone) cues and thus have no other method of locating receptive females (Demary et al. 2005, in Owens et al. 2022, p. 2).

Artificial light changes the night-time ambient brightness, which can change the intensity and timing of firefly flashes (Owens and Lewis 2018, p. 13). Bethany Beach fireflies are phototactic, which means they are attracted to light of any kind, including artificial light (Lloyd 2018, p. 94). Artificial light at night can reduce reproduction by affecting mating signals, which prevents mates from finding each other or prevents males from receiving the correct light cues to begin their nocturnal flashing display or both (Lewis et al. 2020, pp. 160–161).

Light pollution is more of an issue in the Delaware State Parks, which are adjacent to development and infrastructure. Light pollution occurs at all three Delaware State Parks in more than 50 percent (26 of 52) of the occupied swales. There is little light pollution where the species occurs in Maryland and Virginia.

Recreation and Grazing—Because the species' occurrence is almost entirely on State or Federal parkland where visitation is high due to recreational use of the beach, there is the potential for foot traffic in the dunes, which could result in beachgoers trampling adults and larva. However, trampling by humans may be limited because the swales are wet, occupied by mosquitoes, and often surrounded by woody vegetation or invasive vegetation such as *Phragmites*. Trampling of adult females and larvae, destruction of microhabitat that supports fireflies, and increased light pollution have been identified as risks associated with increased numbers of visitors in parks in other parts of the country (Faust 2010, pp. 213, 215; Lewis et al. 2020, pp. 163–164).

In Delaware, there is a dune crossing located 350 feet (106.68 meters) from a swale in which the Bethany Beach firefly is present (Davis 2023d, pers. comm.). At Assateague Island National Seashore in Maryland, there are six dune crossings located near a campground that are adjacent to swale habitat where the species is present. However, all the other swale habitat where the species is present is in areas of the island that do not have camping. Thus, even if trampling occurred to some extent, the number of locations where it occurs is limited. There are also ponies on the island that freely graze throughout the park and walk through the swales, which could damage the soil and vegetation more than would be expected from visitors walking through the swales (Huslander 2023, pers. comm.). Grazing could also result in crushing individual eggs and larvae in the soil. However, ponies likely do not impact the species at the population level since ponies are not constantly grazing in swales, and this is not the only habitat ponies visit. In other words, impacts to swales by ponies are believed to be limited or temporary or both. There is little potential for impacts from recreation at NASA's Wallops Island Flight Facility in Virginia, and while Chincoteague National Wildlife Refuge does have visitation by people, trails for visitors are not in the area where the Bethany Beach firefly occurs (Holcomb 2023, pers. comm.).

Pesticide Use—Pesticides are substances that are used to control pests; pesticides include herbicides, which are used to control vegetation, and insecticides, which are used to control insects. Both herbicides and insecticides have the highest use in agriculture. While some agricultural pesticides have shown negative affects to fireflies in laboratory studies (Wang et al. 2022, entire; Pearsons et al. 2021, entire), the exposure of Bethany Beach fireflies to agricultural use of pesticides is minimal at most. Bethany Beach fireflies occur on barrier islands or within 500 meters (1,640 feet) of the coastline. These areas do not have agriculture nearby. On barrier islands, there is extensive separation from mainland agricultural areas. There may be some garden and home use of pesticides in beach communities on the barrier islands, but the overall use in these areas would be relatively small and the sites occupied by Bethany Beach firefly are primarily on undeveloped public land. Thus, we do not view agricultural pesticide use as a threat to Bethany Beach firefly.

The main source of Bethany Beach firefly exposure to pesticides is through spraying to control mosquitoes in some areas and some limited herbicide use. Although only a few studies have investigated direct effects of herbicides and insecticides on fireflies, broad-spectrum insecticides are known to adversely affect numerous nontarget insects and other taxa (reviewed by Sanchez-Bayo 2011, pp. 74–76; Pisa et al. 2015, pp. 82–83).

Herbicides—The Bethany Beach firefly faces a moderate threat from herbicides. There is some control of *Phragmites* in interdunal swales at Assateague National Seashore, and exposure to herbicides could occur from control of invasive vegetation in and near swales. We expect exposure would be low because the only park that reported control of invasives in interdunal swales was Assateague Island National Seashore. Imazapyr and glyphosate are active ingredients commonly used to control the invasive vegetation using high-pressure or low-pressure foliar spray application,

primarily during the fall months, although imazapyr can be used at any time during the growing season. There is no literature that suggests that there are direct impacts to Bethany Beach firefly from the use of glyphosate and imazapyr, but indirect impacts could cause a reduction in Bethany Beach firefly prey. Some surfactants used in the application of glyphosate and imazapyr to increase efficacy of these two herbicides are more toxic to fish and aquatic invertebrates than glyphosate and imazapyr themselves (Brodman et al. 2010, pp. 80–81; Sinnott 2015, pp. 33–34; Breckels and Kilgour 2018, p. 4; Sinnott 2015, entire). The surfactant polyethoxylated tallowamine (POEA), which is used in glyphosate-based herbicides, has been found to cause the direct mortality of amphibians (Brodman et al. 2010, pp. 70, 80–81). A study of the aquatic surfactant, nonylphenol-polyethylene (NPE), was also found to be moderately toxic to amphibians at concentrations under 1.2 milligrams per liter (mg/L); however, more research is needed (Brodman et al. 2010, pp. 70, 80–81). Based on these results, there could be the potential for indirect effects to the Bethany Beach firefly from the use of surfactants with glyphosate or imazapyr through impacts to food sources. However, at this time, there is little exposure overall from herbicide use across the Bethany Beach firefly's range.

Insecticides for Mosquito Control—The Bethany Beach firefly's exposure to organophosphate adulticides for mosquito control varies across its range. Mosquito spraying is not conducted on Assateague Island National Seashore in Maryland or at the Virginia park properties where the species occurs (see table 3, below). However, there is some spraying in areas at NASA's Wallops Island Flight Facility and at the Delaware State Parks. At Wallops Island, the Bethany Beach firefly's exposure to these insecticides is likely low because spraying is only applied on the grass and local brush and not in waterways or storm drain/outfall areas (Levine 2023, pers. comm.).

Delaware uses two mosquito control chemicals. Within the Delaware State Parks, the current agreement with Delaware Division of Fish and Wildlife (DFW) is that there is no spraying of adulticides between June 15 and August 15, when adult Bethany Beach fireflies are most active. During this time, DFW uses Bti, which targets mosquito larvae. Bti (short for *Bacillus thuringiensis* subsp. *israelensis*) is a naturally occurring bacterium found in soils and targets only the larvae of the mosquito, blackfly, and fungus gnat (*https://www.epa.gov/mosquitocontrol/bti-mosquito-control##4*). Bti is considered very safe because it targets only specific insects.

Outside the June 15 to August 15 timeframe, Delaware has used Trumpet EC™, a common chemical for mosquito control with an active ingredient called naled. Trumpet EC™ is derived from phosphoric acid and is highly toxic to fish resources and a wide range of aquatic non-target organisms including mayflies, caddisflies, crustaceans, fresh and saltwater chironomids, and other marine invertebrates. Organophosphates are also highly toxic to terrestrial insects and aquatic beetles that are naturally occurring predators of mosquito larvae (Laskowski et al. 1999, p. 742; Pinkney et al. 2000, p. 678).

While we do not have data on the effects of Trumpet EC™ specifically on fireflies, Bethany Beach fireflies still occur in swales that have been sprayed by this chemical. Table 1 below describes the swales that have been sprayed over time, mostly in Delaware Seashore State Park, likely because they are near some park facilities. Swales 700, 701, 702, 703 have been sprayed in 11 of the 12 events described in table 1, starting in 2013 and continuing into 2023. All four swales continue to have Bethany Beach firefly presence with the most recent years of observation being 2021, 2023, 2020 and 2022, respectively. While more information would be helpful, the best available information does not show harmful effects of the Delaware spray regime to Bethany Beach firefly populations.

TABLE 1—OCCUPIED BETHANY BEACH FIREFLY SWALES SPRAYED WITH ADULTICIDE TRUMPET EC™ OUTSIDE THE ADULT FLIGHT SEASON SINCE 2013

[Davis 2023i, pers. comm.]

Date adulticide applied	Rate (ounces per acre)	Swale(s) [1] [2]
June 23, 2013	1.0 oz./ac.	700, 701, 702, 703
September 9, 2016.	0.8 oz./ac.	[1] 59
September 14, 2016.	0.8 oz./ac.	700, 701, 702, 703
June 3, 2017 ..	1.0 oz./ac.	15, 16, 17, 24, 26, 30, 231, 400, 402, 700, 701, 702, 703
August 9, 2017.	0.8 oz./ac.	15, 16, 17, 24, 26, 30, 231, 400, 402, 700, 701, 702, 703
July 31, 2018	0.8 oz./ac.	700, 701, 702, 703
September 20, 2018.	0.8 oz./ac.	700, 701, 702, 703
September 10, 2019.	0.8 oz./ac.	700, 701, 702, 703
August 26, 2020.	1.0 oz./ac.	24, 26, 30, 231, 700, 701, 702, 703
September 15, 2020.	1.0 oz./ac.	15, 16, 17, 24, 26, 30, 231, 400, 402, 700, 701, 702, 703
September 12, 2022.	0.8 oz./ac.	700, 701, 702, 703
September 12, 2023.	1.0 oz./ac.	30, 700, 701, 702, 703
October 6, 2023.	1.0 oz./ac.	15, 16, 17, 24, 26, 30, 231, 700, 701, 702, 703

[1] Swale 59 is Cape Henlopen.

[2] All other swales are in the Delaware Seashore State Park.

As discussed in section 5.2 of the SSA report, more severe storm events and sea level rise could increase the amount of time there is standing water, which could increase mosquito populations and necessitate more frequent use of adulticides (Davis 2023d, pers. comm.).

One additional insecticide used in the species' habitat is GYPCHEK®, used at False Cape State Park to control gypsy moths on an as-needed basis. It was used as recently as spring 2023. GYPCHEK® is an insecticide prepared from gypsy moth larvae that have been killed by the nuclear polyhedrosis virus. The active ingredient in GYPCHEK® is the virus, which is embedded in a protein particle called the polyhedron. GYPCHEK® specifically targets the gypsy moth and has no effect on other insects (Lewis et al. 1979, p. 1).

Invasive Plant Species—Invasive plant species, particularly common reed, are present in some of the interdunal swales where the Bethany

Beach firefly occurs. The common reed is an aggressive and competitive plant that grows rapidly and displaces naturally diverse vegetation communities with dense mono-cultural stands (Wilcox et al. 2003 p. 665; Gilbert 2014, p. 78). Expansion of common reed populations can be rapid: a single clone can cover an eighth of a hectare (0.31 acre) in 2 years (Hocking et al. 1983, in Asaeda and Karunarathe 2000, p. 302) and the slow decomposition of common reed detritus can significantly reduce the availability of nutrients, light, and space, making the survival or establishment of other species unlikely (Meyerson et al. 2000, p. 93). A number of studies have shown that once established, the common reed will increase marsh elevation to a greater extent than other marsh species through higher accumulation of organic and mineral matter. This is largely a result of its high biomass production and high rates of litter accumulation (Windham and Lathrop 1999, p. 931; Meyerson et al. 2000, p. 89; Rooth et al. 2003, p. 480).

There are several ways that *Phragmites,* the common reed, may reduce habitat quality for Bethany Beach fireflies. By elevating the marsh surface, hydrological flow within a marsh is modified. Establishment of monocultures of the common reed in interdunal swales would likely decrease available soil substrate and moisture for larva. In addition, the reduction in plant biodiversity in areas overtaken by the common reed can reduce prey species on which firefly larvae feed.

Phragmites occurs in many swales in Delaware. Botanical surveys conducted between 2015 to 2017 in Delaware's interdunal swales indicate that at least 34 swales had some level of common reed invasion. Other invasive species such as Japanese black pine (*Pinus thunbergii*) and Bermuda grass (*Cynodon dactylon*) are also growing in some of the swales, and DFW discovered silver grass (*Miscanthus* sp.) dumped in a swale (Davis 2023e, pers. comm.). There has been limited control of invasive plants using herbicides at an occupied swale in Cape Henlopen State Park for the purposes of protecting a rare plant, but control of invasives in other interdunal swales in Delaware State Parks does not occur unless initiated by DFW, which is rare (Davis 2023j, pers. comm.).

Phragmites are also present in Virginia and Maryland. At Assateague Island National Seashore, common reed occurs in the occupied swales adjacent to the campground, and herbicide is used to control its spread at the park (Huslander 2023, pers. comm.). In Virginia, there are thousands of acres of common reed on NASA's Wallops Island Flight Facility, which, unless there is a direct fire threat during launch operations, are not managed (Miller 2023, pers. comm.). At Chincoteague National Wildlife Refuge, it is unknown whether the common reed occurs near the swales (Holcomb 2023, pers. comm.). The only park in which the common reed is not present in the interdunal swale habitat is False Cape State Park (Swain 2023, pers. comm.).

Other Habitat Stressors

Woody Plant Encroachment—Interdunal swales with Bethany Beach fireflies are typically shallow depressions (swales) with herbaceous vegetation in the depression and woody species such as southern wax myrtle (*Morella cerifera),* highbush blueberry (*Vaccinium corymbosum*), and groundseltree (*Baccharis halimifolia*) found along the perimeter of the depression. When these low, shrub-like woody species are succeeded by tree species, such as *Pinus, Acer,* and *Liquidambar,* swales can become woody thickets that have altered hydrology, which can reduce habitat for Bethany Beach firefly larvae (Davis 2023f, pers. comm.). Woody plants become established when the depression wetlands or swales are dry for consecutive years. Thus, periods of drought trend towards shrub and tree communities (Service 2024, p. 12).

The Bethany Beach firefly requires temporally stable swales. Swales will eventually succeed to maritime forest if succession is not offset by periodic saltwater intrusion. Under natural conditions, disturbance to prevent succession is driven by periodic dune overwash from storm surge. Construction of shoreline erosion control structures, such as rock revetments, jetties, artificial dunes, and placement of sand fencing, can reduce the amount of overwash from storm surge (see also *Shoreline Erosion Control (shoreline erosion control, constructed dunes, sand fencing),* below). In places where shoreline erosion control measures have been put in place, more woody succession has been observed. Thus, succession of woody species is occurring in some of the interdunal swales in Delaware, resulting in a loss of wetland function, plant species diversity, and wildlife diversity. Interdunal swales there are impacted by establishment of tree species such as loblolly pine (*Pinus taeda*), pond pine (*Pinus serotina*), red maple (*Acer rubrum*), sweet gum (*Liquidambar styraciflua*), and Japanese black pine (*Pinus thunbergii*).

By contrast, at Assateague Island National Seashore, where there has been limited shoreline erosion control, there is little tree encroachment (Huslander 2023, pers. comm.). There is some succession occurring at False Cape State Park (Swain 2023, pers. comm.). It is unknown if there is tree encroachment occurring at the other two Virginia properties, but there likely is some due to a lack of major storms occurring over the last several years.

Shoreline Erosion Control (sand fencing and constructed dunes)—There are several methods of shoreline erosion control used within the range of Bethany Beach firefly. The most common methods are the construction of artificial dunes and the use of sand fencing. Artificial dunes are engineered structures built to imitate the form of natural dunes and sand fencing is fencing placed on the beach to assist in building a new foredune or fill gaps in dune ridges. The Delaware Department of Transportation maintains the Route 1 highway after storm events and has replenished the dunes south of an occupied swale at Delaware Seashore State Park. There are dune crossings with sand fencing near seven swales in this park where Bethany Beach firefly has not been detected (Davis 2023g, pers. comm.). At Assateague National Seashore, there are constructed dunes and some sand fencing near the campground and in front of the swales where the species occurs. Constructed dunes and sand fencing are detrimental to Bethany Beach firefly because they hinder the natural disturbance needed to keep the swales open with herbaceous vegetation with sufficient soil moisture to support larvae and its prey sources. There are no constructed dunes adjacent to occupied or unoccupied swales occurring south of the campground in the area where vehicles may drive on the beach (*i.e.,* over the sand). There is a low likelihood that construction would occur in the future due to the lack of infrastructure and camping areas in the southern part of Assateague Island National Seashore (Huslander 2023, pers. comm.). There are no constructed dunes or sand fencing at Chincoteague or False Cape State Park (Holcomb 2023, pers. comm; Swain 2023, pers. comm.). There is a constructed dune on NASA's Wallops Island Flight Facility that runs the length of the beach fill template. The core of the constructed sand dune is armor stone, which is periodically re-covered with sand during Wallops Island beach renourishment events (on average, every 3 to 7 years) (Miller 2023, pers. comm.).

In summary, habitat loss, fragmentation, and degradation has occurred in the past, is occurring presently, and will continue to occur in the future. While the known species occurrences are entirely on public lands, there are likely impacts to the species and its habitat due to light pollution, mosquito spraying (only in Delaware), recreation, invasive plants, adjacent residential development (only in Delaware), and the potential for the development of additional infrastructure in the Delaware Parks. Therefore, the magnitude of the threat on the species' viability is moderate to high.

Small Population Size—Surveys conducted for the Bethany beach firefly involve watching for double flashes for a set period of time to confirm presence (see section 5.1 of the SSA report (Service 2024, pp. 36–37)). While surveys can quantify the number of double flashes observed, which can be compared among different sites, quantifying the actual abundance of individuals is not possible. Based on survey efforts that have occurred, only a few double flashes are observed at most sites, likely indicating small population sizes in these wetlands. Several swales in Delaware have a higher number of observations of double flashing than others, but none have been found to be as abundant as the Tower Shores wetland was in 1998, when hundreds of double flashes were observed. Small population sizes and lack of connectivity in certain areas can result in an Allee effect, which occurs when there is a population size or density correlation with some characteristics of individual fitness (Drake and Kramer 2011, p. 2). A strong Allee effect, or density dependence on fitness, means that individuals may be less likely to survive when overall population density is low, and may result in a critical population size below which the population cannot exist. Species with small or sparse populations, such as the Bethany Beach firefly, are susceptible to the Allee effect. For instance, where a population is not dense, there may be few males or females available, or there may not be individuals with high fitness, both of which can exacerbate the Allee effect by reducing instances of successful mating and reducing survival of young when mating does occur (Gascoigne et al. 2009, p. 356).

Similarly, the isolation of populations can reduce gene flow, which in turn can reduce the fitness of an entire population. Even a common, widespread firefly species, the common eastern firefly (*Photinus pyralis*), was shown to have little gene flow among populations despite the adults being able flyers (Lower et al. 2018, p. 7). Genetic studies are needed to determine whether there is enough gene flow among Bethany Beach firefly populations to sustain those populations and to better assess the threat of the Allee effect. While abundance has not been quantified for the species, observations of just a few individuals in most swales likely indicates small population sizes throughout the species' range. The magnitude of the impacts of small population size on the species' viability is high.

Climate Change

Climate change refers to changes in temperature, precipitation, storm intensity, and sea level rise that are due to rising levels of greenhouse gases in the atmosphere. Individually and collectively, these changes are anticipated to increase environmental stochasticity and reduce habitat quality for the Bethany Beach firefly. Below, we analyze how rising temperatures, increased precipitation, increased storm intensity, and rising seas will affect the firefly.

Temperatures—Since 1901, temperatures in the Northeast have risen steadily. The amount of the increase depends on location and ranges from less than 0.6 degrees Celsius (°C) (1 degree Fahrenheit (°F); West Virginia) to about 1.7 °C (3 °F; New England). Temperatures are expected to continue to rise (Dupigny-Giroux et al. 2018, p. 672). As a consequence of warming temperatures, precipitation patterns are expected to become more extreme and less predictable. While total precipitation is expected to increase in the winter and spring, with little change in the summer, hotter and more intense droughts are also forecast. Increases in temperature and droughts could reduce soil moisture and hydrology of the interdunal swales during the summer months, which could result in egg and larval mortality and habitat degradation. Firefly eggs can dry out or become moldy if the humidity and temperatures are not suitable (Faust 2017, p. 40). High maximum temperatures in winter and spring during larval development have been shown to result in lower adult abundance the following summer (Evans et al. 2019, p. 6). An increase in temperature could also alter firefly phenology by advancing or de-synchronizing the dates of male and female emergence or display time or both. For instance, one firefly species, the Smokies synchronous firefly (*Photinus carolinus*), now has its peak mating time 10 days earlier than it did 20 years ago, and females now emerge and display flashes earlier than males (Faust and Weston 2009, pp. 1509–1510). Finally, increasing temperatures could change the ecology of the swales, for instance, by creating conditions conducive to the spread of invasive species (Angel et al. 2018, p. 875).

Increased Precipitation—Rainfall intensity, and consequently risk of flooding, has been increasing over the range of the Bethany Beach firefly and is expected to continue (Dupigny-Giroux et al. 2018, p. 672). The frequency and annual amount of heavy precipitation in the northeastern United States has increased over the past 100 years and has become significantly wetter from 1957–2010 (Kunkel et al. 2013, as cited in Collee et al. 2015, p. 133). The number of extreme precipitation events is expected to rise as much as 6 to 40 percent across the globe, and a 10 to 15 percent increase in the amount of precipitation is expected along the U.S. East Coast by the later 21st century (Allan et al. 2008 and Lombardo et al. 2015, as cited in Collee et al. 2015, pp. 133–135). Increased rainfall and floods increase the potential for soil erosion and habitat loss, and droughts can increase the spread of invasive species (Angel et al. 2018, p. 875). Drought can also reduce the hydroperiod, or length of time that standing water exists on the landscape which could remove the soil moisture needed for eggs and larva to survive.

Increased Storm Intensity—With increasing temperatures, a warming ocean will produce more intense storms and stronger winds, resulting in higher storm surge and more extensive flooding in the future. More frequent and severe storm events could result in more frequent saltwater intrusion, flooded swales, and overwash of salt water into the swales, which could result in larval mortality, mortality of prey resources, and a change in vegetation and hydrology in the swales. At current sea levels, coastal storms can cause surges between 0.61 and 1.2 meters (2 and 4 feet) along the Delaware Bay and Atlantic Coast; these heights are comparable to expected sea level rise by 2100 (Delaware Coastal Program 2012, pp. 4–5; see also *Sea Level Rise,* below). Saltwater intrusion and overwash increases salinity in swales until freshwater flushes out the system, which can take anywhere from weeks to months (Anderson 2002, pp. 415–417; see *Sea Level Rise,* below). The Delaware, Maryland, and Virginia Atlantic coastline is positioned latitudinally such that it experiences coastal flooding from extratropical (*e.g.,*

nor'easters) and tropical storm systems, together numbering about 30 to 35 coastal storms per year (Leathers et al. 2011, p. 10).

Sea Level Rise—A recently updated sea level rise report (Sweet et al. 2022, entire) generated global mean sea level (GMSL) projections and scenarios and adjusted these GMSL scenarios to specific regional conditions for the entire U.S. coastline. Local scenarios are provided for two locations within the known range of the Bethany Beach firefly, which estimate between 1.4 and 1.7 feet of sea level rise by 2050, and 4 to 7 ft of rise by 2100 (National Oceanic and Atmospheric Administration (NOAA) 2023, entire).

The impact of sea level rise on the species would be loss and degradation of suitable habitat from more frequent inundation and saltwater intrusion, as well as the potential for conversion to open water without marsh migration. Marsh migration landward cannot occur where there are physical barriers to migration such as roads and buildings. and where other features of the landscape, such as suitable elevation, slope, substrate, and other natural landscape features required for marsh habitat to establish and thrive, are not present. Construction of artificial dunes may increase in areas where there is residential development and/or infrastructure and may result in changes in vegetation and impact habitat suitability for the Bethany Beach firefly. Constructed dunes are detrimental to the Bethany Beach firefly because they hinder the natural disturbance needed to keep the swales open (*i.e.,* to maintain swales with herbaceous vegetation surrounded by some shrub-scrub habitat).

Even where habitat is not destroyed, storm events can temporarily inundate swales. At Assateague Island National Seashore, some swales are inundated for an average of 5 days after a storm event (Huslander 2023, pers. comm.). Although the Bethany Beach firefly has persisted through these events, and evidently has some ability to endure elevated water levels and elevated salinity levels on a temporary basis, it is unclear whether the species can withstand more frequent or more prolonged inundation.

Along with sea level rise, high tide flooding is projected to increase in frequency through the end of the century (Sweet et al. 2018, pp. vii–viii). High tide flooding is minor or ''nuisance'' flooding, caused by both tidal and non-tidal (*e.g.,* storm surges) factors, and these events have been increasing in frequency and depth over the last several decades. By 2050, days with minor flooding events are expected to increase from approximately 2.5 days per year to between 45 and 130 days per year along the Northeast Atlantic coast (Sweet et al. 2018, pp. vii–viii). Such minor flooding events are expected to increase the amount of time that the swales are inundated with salt water. While the Bethany Beach firefly can tolerate some saltwater inundation, long periods of inundation will likely impact larval survival.

In addition to more frequent, severe storm events and sea level rise, elevation loss due to subsidence is a threat to coastal areas and many wetland habitat types and their distribution (Sweet et al. 2017, p. 1; Dupigny-Giroux et al. 2018, p. 17). Subsidence is a gradual settling or sinking of land. Recent considerations of the combined effect of sea level rise and subsidence indicates that subsidence increases the threat to coastal communities from sea level rise and may even triple estimates of potential flooding over the next several decades which could degrade or result in habitat loss for the species (Ohenhe et al. 2024, p. 1).

In summary, the impacts of climate change will alter or destroy habitat and have the potential to change reproductive success and behavior throughout the range of the Bethany Beach firefly by 2100.

Conservation Efforts and Regulatory Mechanisms

The species is listed as an endangered species at the State level by the Delaware Division of Fish and Wildlife. Delaware Endangered Species code prohibits the possession or sale of an endangered species. There are no population or habitat protection sections in the Delaware Endangered Species code but there is review of projects that are proposed on State lands for these species. The species currently has no protection in Maryland or Virginia. Some woody vegetation and phragmites control have occurred in interdunal swales in two locations and there have been successful efforts to reduce lighting near occupied swales in Delaware. These efforts are likely benefitting individuals and populations occurring in those locations. Conservation efforts have been focused on conducting surveys to better understand distribution and threats to help inform future conservation efforts for the species.

Synergistic and Cumulative Effects

We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have analyzed the cumulative effects of identified threats and conservation actions on the species. To assess the current and future condition of the species, we evaluate the effects of all the relevant factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative-effects analysis.

Current Condition

The current condition of the Bethany Beach firefly is described in terms of population resiliency, redundancy, and representation across the species' range. The analysis of these conservation principles to understand the species' current viability is described in more detail in chapter 5 of the SSA report (Service 2024, pp. 36–51).

Potential Habitat and Populations

We assume that there is little to no dispersal of adult fireflies occurring between swales greater than 1,000 feet (305 meters) apart. This is based on observations from surveys conducted since 2019. All swales within 1,000 feet (305 meters) of a known occupied swale were grouped into ''complexes,'' and these complexes were used as the analytical units to describe a population. Because swales have not been mapped for Virginia, and we only have detection locations, we buffered detection locations instead of the swales; therefore, complexes in Virginia are defined by survey locations that occur within 1,000 feet (305 meters) of each other. Since surveys occurred by swale in Maryland and Delaware, and by detections in Virginia, we consider the entire complex occupied if any swale within that complex has documented detections. We consider complexes to be occupied if there have been detections of the species since 2019.

Rangewide, we identified 143 swales in 31 complexes (see table 2, below), representing both actual and potential Bethany Beach firefly habitat. Identified complexes each contain between 1 and 19 swales. Fifteen complexes are known to be currently occupied, and these contain 36 total occupied swales (see table 2, below). Two properties, Delaware Seashore State Park and Assateague Island National Seashore, each have 4 occupied complexes containing a total of 21 occupied swales, accounting for more than half of the

occupied complexes and swales rangewide. NASA's Wallops Island Flight Facility in Virginia has three occupied complexes. The greatest number of occupied swales within a given complex is five, which occurs in one complex at Chincoteague; three additional complexes across the range each have four known occupied swales. Six of the occupied complexes (40 percent) are known to have just one occupied swale each (see table 2, below).

Ten complexes have had surveys but no detections of Bethany Beach firefly, although survey effort varies among these complexes (see table 2, below). However, one complex on Tower Shores land north of Bethany Beach (DE_PRIV_12) had detections of Bethany Beach firefly in 1998, but the species has not been detected since. Habitat in this complex has been degraded by development and an elevated roadway, making occupancy unlikely.

Forty-eight identified swales have not been surveyed (see table 2, below). Seven complexes (totaling 10 swales) have not had any surveys in any of their swales.

No complexes cross property boundaries; thus, we assume that there is no dispersal of individuals among Assateague Island National Seashore, Chincoteague National Wildlife Refuge, and NASA's Wallops Island Flight Facility, despite these properties' proximity to one another. This is based on our assumption that the species cannot disperse more than 1,000 feet (305 meters) based on observations from the surveys conducted from 2019 through 2024 (Davis, J. 2023c.).

TABLE 2—KNOWN COMPLEXES OF SWALES THAT PROVIDE POTENTIAL HABITAT TO THE BETHANY BEACH FIREFLY

[Information is provided by property, listed north to south, with the total swales with Bethany Beach firefly (BBFF) presence, number of swales that were surveyed but had no detections, number of swales not surveyed, total swales per complex, and overall complex status. Complexes with "current" status are those with detections since 2019 and are considered to be extant; "not detected" indicates that surveys since 2019 did not produce detections.]

State	Property	Complex	# of swales BBFF present	# of swales no detections	# of swales not surveyed	Total swales in each complex	Status
DE	Cape Henlopen	DE_CAHE_01		4	3	7	Not detected.
		DE_CAHE_02		1		1	Not detected.
		DE_CAHE_03	1	4		5	Current.
		DE_CAHE_04			1	1	Not surveyed.
		DE_CAHE_05			1	1	Not surveyed.
	DE Seashore SP	DE_SESP_06	4			4	Current.
		DE_SESP_07		3	5	8	Not detected.
		DE_SESP_08	4	10	5	19	Current.
		DE_SESP_09	3	2		5	Current.
		DE_SESP_10	2	1	2	5	Current.
		DE_SESP_11		4		4	Not detected.
	Private Land	DE_PRIV_12		1		1	Not detected.
		DE_PRIV_13			2	2	Not surveyed.
		DE_PRIV_14		1	1	2	Not detected.
		DE_PRIV_15			1	1	Not surveyed.
	Fenwick Island SP	DE_FENSP_16	3	9	2	14	Current.
		DE_FENSP_17		1		1	Not detected.
MD	Assateague Island	MD_ASIS_01	2	1	3	6	Current.
		MD_ASIS_02	1	1	6	8	Current.
		MD_ASIS_03	4	0	2	6	Current.
		MD_ASIS_04	1	3	9	13	Current.
		MD_ASIS_05			1	1	Not surveyed.
		MD_ASIS_06			2	2	Not surveyed.
		MD_ASIS_07			2	2	Not surveyed.
VA	Chincoteague NWR	VA_CHIN_01		1		1	Not detected.
		VA_CHIN_04	5	2		7	Current.
	NASA's Wallops Island Flight Facility.	VA_WALL_02	1	2		3	Current.
		VA_WALL_03	1	2		3	Current.
		VA_WALL_05	1	3		4	Current.
	False Cape SP	VA_FCSP_06	3	2		5	Current.
		VA_FCSP_07		1		1	Not detected.

TABLE 2—KNOWN COMPLEXES OF SWALES THAT PROVIDE POTENTIAL HABITAT TO THE BETHANY BEACH FIREFLY—Continued

[Information is provided by property, listed north to south, with the total swales with Bethany Beach firefly (BBFF) presence, number of swales that were surveyed but had no detections, number of swales not surveyed, total swales per complex, and overall complex status. Complexes with "current" status are those with detections since 2019 and are considered to be extant; "not detected" indicates that surveys since 2019 did not produce detections.]

State	Property	Complex	# of swales BBFF present	# of swales no detections	# of swales not surveyed	Total swales in each complex	Status
Total	.....	31	36	59	48	143	

Resiliency

Currently, data are not available regarding the population structure or demographics of the Bethany Beach firefly which is typically used to estimate resiliency. Based on survey efforts that have occurred since 2019, only a few double flashes are observed at most sites, likely indicating small population sizes and low resiliency across the range. More than half of the occupied complexes (n = 8) and more than half of the occupied swales (n = 21) occur on two properties, Delaware Seashore State Park and Assateague Island National Seashore (see table 2, above) which suggests higher resiliency compared to the other properties with respect to occupied habitat and connectivity among swales (complexes).

Cape Henlopen, Delaware Seashore, and Fenwick Island State Parks have some of the most numerous current stressors, including extensive invasive species in swales, light pollution in more than a third to more than half of swales, and mosquito spraying occurring or likely to occur (see table 2, below) which has likely resulted in decreased resiliency over time.

Table 3. Summary of surveyed and occupied complexes and swales by property, percent of the rangewide occupied swales in each property, and current stressors for the Bethany Beach firefly.

		Number Complexes			Number swales				Percent of Range wide Occupied Swales	Current Stressors				
State	Property	BBFF Present	Total Surveyed	Percent Occupied	BBFF Present	Total Surveyed	Percent Occupied	Current Status		Obs. habitat loss?	Habitat Degradation	Lighting	Mosquito spray	Development
DE	Cape Henlopen SP	1	3	33	1	10	10	Current	3	no	extensive *Phragmites* in most swales	mentioned for 4 of 10 swales	yes	Moderate; park facilities
DE	Delaware Seashore SP	**4**	**6**	**67**	**13**	**33**	**39**	Current	36	no	extensive *Phragmites* in many swales	mentioned for 13 of 29 swales	yes	Moderate; park facilities
DE	Private Land N. of Bethany Beach	0	2	0	0	2	0	Likely extirpated	0	yes	wetland shaded by structure	surrounded by lit homes and highway	unknown	High; habitat lost
DE	Fenwick Island SP	1	2	50	3	13	23	Current	8	no	extensive *Phragmites* in some swales	mentioned for 9 of 13 swales	unknown, likely	Low; park facilities
MD	Assateague Island National Seashore	4	4	100	8	13	62	Current	22	no	*Phragmites* occurring in some swales	some - campground	no	Low
VA	Chincoteague NWR	1	2	50	5	8	63	Current	14	no	*Phragmites* in some swales ponies - trampling, poop	no	no	Low
VA	NASA Wallops Flight Facility	3	3	100	3	10	30	Current	8	no	extensive *Phragmites*	some (amber, periodic white)	yes but nearby	Moderate; some buildings
VA	False Cape State Park	1	2	50	3	6	50	Current	8	no	no *Phragmites* in swales habitat, no ponies	no	no	Very Low
	Total	**15**	**24**		**36**	**95**								

Species Redundancy and Representation

The Bethany Beach firefly exists as at least 15 current known ''populations,'' or complexes of swales containing at least one occupied swale. Given the recent discovery of the species and limited survey efforts, it is possible that other populations exist, as potentially suitable swales and complexes with similar plant communities extend north into New York and New Jersey and south into North and South Carolina. (Edinger et al. 2014, p. 13 (New York); Breden et al. 2001, p. 109 (New Jersey); Shafale 2012, p. 185 (North Carolina); Nelson 1986, p. 26 (South Carolina). Even so, the species is assumed to have low representation due to a narrow geographic range (approximately 260 kilometers (162 miles) of coastline) because of its specialized habitat requirements and no evidence of unique genetic distinctions ecological differences among different populations of Bethany Beach firefly across the range.

Although the species' historical populations were likely limited by the availability of swale habitat along the Atlantic coast, the development of this habitat over the past century has a decreased the number of populations within the species' range which has reduced representation and redundancy.

The redundancy of the species is believed overall to be low. Swales in the range of the Bethany Beach firefly are limited, localized habitats, so there are not many available populations nearby to repopulate areas that become extirpated; the species' exclusive use of interdunal swale habitat prevents the expansion of the species into new areas. Because of the species' poor flying abilities (based on observations from surveys), we assume that there is no regular dispersal among complexes.

Due to the species' small geographic range, catastrophic events (hurricanes, droughts, etc.) have the potential to affect all populations at once. For instance, a strong hurricane or other storm could affect swales across the species' entire range. Although this species has evolved with hurricanes and likely has the adaptive capacity to withstand typical impacts from storms, such as repeated flooding by saltwater, it is unknown where the tolerance ends, and if prolonged flooding or too frequent overwash would lead to population decline or extirpation. The species does not have much ability to shift its range in the event of a catastrophic impact to existing habitat, due to the limited availability of swale habitat and the distance between complexes. Localized threats, such as light pollution, habitat loss, and insecticides (mosquito spraying), could reduce or extirpate populations in particular complexes.

Future Condition

A thorough review of the Bethany Beach firefly's projected future condition is presented in chapter 6 of the SSA report (Service 2024, pp. 52–62).

The most significant threats to the Bethany Beach firefly in the future are the compounding effects of climate change, specifically increased frequency and intensity of coastal storms and sea level rise, as explained above under *Increased Storm Intensity* and *Sea Level Rise.*

In the SSA report, we focus our future condition analysis on how the effects of sea level rise due to climate change will impact the resiliency, redundancy, and representation of the species into the future. We evaluated the future condition of the Bethany Beach firefly in 30-year intervals at years 2040, 2070, and 2100, under both an intermediate and a high climate scenario. These scenarios use localized projections of sea level rise aligned with emissions-based model projections of global mean sea level rise and bound the upper and lower end of the likely scenarios. We did not include ''intermediate low'' or ''low'' projections, nor the 2000 extrapolation scenario, due to their high probability of being exceeded; the current NOAA projections also leave out an ''extreme'' scenario due to the low likelihood of it being realized (Sweet et al. 2017, pp. 11–13; Sweet et al. 2022, pp. 11–12).

Under an intermediate climate scenario, 9 of the 15 (60 percent) occupied complexes see some level of impacts by 2040, and all but one are impacted by 2070 (Table 4). At least one complex is projected to be extirpated by 2070, and at least seven become extirpated by 2100. Only one complex remains without any impacts by those timesteps.

Under a high climate scenario, 9 of the 15 occupied complexes see some level of impacts by 2040, and all but one are impacted by 2070 (Table 4). At least one complex is projected to be extirpated by 2040, with at least five projected to be extirpated by 2070. All but two are projected to be extirpated by 2100. All complexes have some level of impacts by 2100.

Table 4. Impacts of sea level rise indicating degraded swales from high tide flooding and lost swales from inundation affecting habitat within only currently occupied complexes in the known range of the Bethany Beach firefly at each timestep and for each scenario (Intermediate (Int) and High). Values in the 2040, 2070, and 2100 columns represent that percentage of swales in each complex that are degraded or lost to inundation for each scenario, as well as the percent of swales that will have any impacts of rising waters (total impacts), representing the sum of the percents degraded and lost.

				2040				2070				2100			
				Int		High		Int		High		Int		High	
Property	Complex	Status	Total Swales	Degraded 3ft	Lost 1ft	Degraded 3ft	Lost 1ft	Degraded 4ft	Lost 2ft	Degraded 5ft	Lost 3ft	Degraded 6ft	Lost 4ft	Degraded 9ft	Lost 7ft
Cp. Henlopen	DE_CAHE_03	Current	5	40	0	40	0	40	20	60	40	20	60	20	80
DE Seashore SP	DE_SESP_06	Current	4	100	0	100	0	0	100	0	100	0	100	0	100
	DE_SESP_08	Current	19	53	0	53	0	100	0	47	53	0	100	0	100
	DE_SESP_09	Current	5	0	0	0	0	100	0	100	0	0	100	0	100
	DE_SESP_10	Current	5	100	0	100	0	80	20	0	100	0	100	0	100
Fenwick Is. SP	DE_FENSP_16	Current	14	7	0	7	0	86	7	93	7	7	93	0	100
Assateague Island	MD_ASIS_01	Current	6	0	0	0	0	33	0	100	0	67	33	0	100
	MD_ASIS_02	Current	8	0	0	0	0	13	0	75	0	88	13	0	100
	MD_ASIS_03	Current	6	0	0	0	0	33	0	100	0	67	33	0	100
	MD_ASIS_04	Current	13	0	0	0	0	69	0	92	0	31	69	0	100
Chincoteague	VA_CHIN_04	Current	7	100	0	100	0	14	86	0	100	0	100	0	100
Wallops Island	VA_WALL_02	Current	3	100	0	100	0	67	33	0	100	0	100	0	100
	VA_WALL_03	Current	3	67	0	67	0	67	0	33	67	33	67	0	100
	VA_WALL_05	Current	4	100	0	100	0	100	0	0	100	0	100	0	100
False Cape SP	VA_FCSP_06	Current	5	0	0	0	0	0	0	0	0	0	0	100	0

Future Resiliency

The Bethany Beach firefly's resiliency, which is already limited, is expected to continue to decline into the future. As discussed above, sea level rise is expected to degrade large portions of the species' known occupied habitat by 2040, and to destroy significant portions by 2070. Even if the firefly is able to withstand habitat degradation, it likely will not be able to withstand habitat destruction. As noted above, its habitat needs are specialized and due to dense urbanization of the coastal areas in its range and the narrow width of the barrier islands in which it occurs, it seems unlikely that the species will be able to colonize new habitats inland. Meanwhile, other stressors, such as mosquito spraying, are not expected to cease.

Future Redundancy and Representation

Redundancy is expected to decrease in the future, as extirpations are projected for the Bethany Beach firefly under both scenarios by 2070. Regarding representation, while there are no known subspecies or phenotypes of the Bethany Beach firefly, the loss of any single population is likely to decrease the genetic variation of the species. Given the distance between complexes, the species has limited ability to repopulate areas where populations have been extirpated. In addition, given its specific habitat needs, the species is unlikely to have the adaptive capacity to shift its range to avoid the impacts of sea level rise. While it may be able to persist despite some impacts from more frequent flooding, eventually inundation will become too frequent or too persistent for the species to tolerate.

In summary, under either an intermediate or high climate scenario, overall redundancy and representation are expected to decline in the future, and suitable habitat will be nearly eliminated by 2100. Given the species' specific habitat needs, the reduction in suitable habitat is expected to result in a reduction in resiliency.

Determination of Bethany Beach Firefly's Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an ''endangered species'' as a species in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of an endangered species or a threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the Act's section 4(a)(1) factors, we found that the Bethany Beach firefly meets the Act's definition of a threatened species throughout all of its range. We found that impacts from sea level rise, increased frequency and intensity of coastal storms, and increased frequency of high tide flooding are the most substantial threats to the viability of the Bethany Beach firefly. Rising sea levels and high tide flooding caused by climate change will first degrade and then remove habitat due to increased periodic inundation and then result in total inundation at some height above current sea levels with and without storm surges. In the foreseeable future, we anticipate that saltwater intrusion will continue to move inland as climate-change-induced sea level rise continues, causing the loss of Bethany Beach firefly habitat and having the greatest influence on Bethany Beach viability. Small population size in addition to urban development and changes in land cover, light pollution, recreational activities, pesticides, invasive plants, shoreline erosion control (including constructed dunes and sand fencing), and increased temperatures and drought are also threats to the species; we considered these for their cumulative effects.

Bethany Beach firefly is currently known to exist in 15 complexes (populations), containing 36 total occupied swales, in Delaware, Maryland, and Virginia. Rangewide, we identified 143 swales within 31 complexes that contain suitable habitat; however, the best available information does not allow us to determine if all of these areas with suitable habitat are occupied.

Currently, data are not available regarding the population structure or demographics of the Bethany Beach firefly which is typically used to estimate resiliency. Based on survey efforts that have occurred since 2019, only a few double flashes are observed at most sites, likely indicating small population sizes and low resiliency across the range. More than half of the occupied complexes (n = 8) and more than half of the occupied swales (n = 21) occur on two properties, Delaware Seashore State Park and Assateague Island National Seashore (see table 2, above) which suggests higher resiliency compared to the other properties with respect to occupied habitat and connectivity among swales (complexes).

Cape Henlopen, Delaware Seashore, and Fenwick Island State Parks have some of the most numerous current stressors, including extensive invasive species in swales, light pollution in more than a third to more than half of swales, and mosquito spraying occurring or likely to occur (see table 3, above) which has likely resulted in decreased resiliency over time.

At current sea levels, coastal storms can cause surges between 0.61 to 1.2 meters (2 to 4 feet) along the Delaware Bay and Atlantic Coast, heights comparable to expected sea level rise by 2100 (Delaware Coastal Program 2012, pp. 4–5). Saltwater intrusion and overwash increase salinity in swales until freshwater flushes out the system, which can take anywhere from weeks to months (Anderson 2002, pp. 415–417). The Delaware, Maryland, and Virginia Atlantic coastline is positioned latitudinally such that it experiences coastal flooding from extratropical (*e.g.,* nor'easters) and tropical storm systems, together numbering about 30 to 35 coastal storms per year (Leathers et al. 2011, p. 10). It is likely that some of these storm events result in temporary inundation of the swales. At Assateague Island National Seashore, some swales are inundated for an average of 5 days after a storm event (Huslander 2023, pers. comm.). To date, the species has persisted in varying degrees through these events, so there is likely some ability for the species to endure degraded habitat conditions on a temporary basis.

While redundancy and representation for this species are likely reduced from historical levels due to past development, there is occupied habitat located along 260 kilometers (162 miles) of coastline in three States and on seven properties. Given the current resiliency, redundancy, and representation of the Bethany Beach firefly across its range, we conclude that the species is not currently in danger of extinction throughout its range.

We next considered whether the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. In

considering the foreseeable future for the Bethany Beach firefly, we analyzed expected changes in sea level rise and the resulting impacts to resiliency, redundancy, and representation in 30-year intervals at years 2040, 2070, and 2100 under both an intermediate and a high climate scenario (Service 2024, pp. 52–61). We determined that this timeframe represents a period for which we can make reasonably reliable predictions about both the threats to the species and the species' response to those threats.

For the majority of the 15 complexes currently occupied by the Bethany Beach firefly, resiliency is likely to decline in the future. By 2040, nine (60 percent) of the currently occupied complexes have some level of impact (degradation of habitat) to resiliency, regardless of scenario. All complexes at Assateague Island National Seashore and False Cape State Park avoid habitat impacts in 2040. By 2070, only one complex at False Cape State Park, will not be impacted. Under an intermediate scenario, one complex (7 percent) will be extirpated due to permanent inundation, while five (33 percent) will be extirpated under a high scenario. By 2100, the False Cape State Park complex would only avoid impact under an intermediate scenario. Seven (47 percent) of the complexes will be extirpated, with another four having a high level of impact, under the intermediate scenario, while a high scenario predicts the extirpation of all but two complexes (87 percent).

Redundancy is expected to decrease in the future, as extirpations are projected for the Bethany Beach firefly under both scenarios by 2070. Regarding representation, while there are no known ''types'' of Bethany Beach firefly, the loss of any single population is likely to decrease the genetic variation of the species. Given the distance between complexes, the species is unlikely to have the adaptive capacity to shift its range in space to avoid the impacts of sea level rise. While it may be able to persist in place given some impacts of high tide flooding, eventually the frequency of seawater inundation will become too frequent for the species to tolerate. However, it is unknown at what point the species will be unable to tolerate repeated flooding.

In summary, the Bethany Beach firefly already has a limited range with low redundancy and representation levels, meaning its survival is completely dependent on the availability of its habitat. Additionally, the Bethany beach firefly has no ability to disperse outside of its current range and is unlikely to be able to adapt to a saltwater environment. Therefore, the projected loss of habitat in the foreseeable future would leave the species extremely vulnerable to stochastic or catastrophic events. Thus, after assessing the best available information, we conclude that the Bethany Beach firefly is not currently in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout all of its range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so within the foreseeable future throughout all or a significant portion of its range. The court in *Center for Biological Diversity* v. *Everson,* 435 F. Supp. 3d 69 (D.D.C. 2020) (*Everson*), vacated the provision of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (hereafter ''Final Policy''; 79 FR 37578, July 1, 2014) that provided if the Services determine that a species is threatened throughout all of its range, the Services will not analyze whether the species is endangered in a significant portion of its range.

Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Everson,* we now consider whether the species is in danger of extinction in a significant portion of its range. In undertaking this analysis for Bethany Beah firefly, we choose to address the status question first. We evaluated the range of the Bethany Beach firefly to determine if the species is in danger of extinction in any portion of its range. The range of a species can theoretically be divided into portions in an infinite number of ways. We focused our analysis on portions of the species' range that may meet the Act's definition of an endangered species. For the Bethany Beach firefly, we considered whether the threats or their effects on the species are greater in any biologically meaningful portion of the species' range than in other portions such that the species is in danger of extinction in that portion. We examined the following threats: climate change; habitat loss, fragmentation, and degradation; and the cumulative effects of threats to the species. We found that impacts from sea level rise, increased frequency and intensity of coastal storms, and the related effects of increased frequency and depth of high tide flooding are the most substantial threats to the viability of the Bethany Beach firefly throughout its range in the future. As the sea level rises, many Bethany Beach firefly swale habitats will become inundated permanently with seawater. In addition to sea level rise, beaches will be affected by extreme high tides or flooding events, which are projected to increase in frequency (Sweet et al. 2018, pp. vii–viii). Habitat loss, degradation, and fragmentation due to past urbanization and development has caused populations to be isolated with presumably no genetic transfer among them, leaving these small populations at increased risk of impacts from random stochastic and unforeseen catastrophic events. We considered Delaware Seashore State Park and Assateague Island National Seashore as a portion because they have 58 percent of the occupied swales rangewide. Assateague Island has 22 percent of the occupied swales with few current stressors while Delaware Seashore State Park has 36 percent of the occupied swales and the most numerous stressors currently. However, current resiliency at Delaware Seashore State Park is higher than all of the other properties due to the number of occupied swales (33) and complexes (4). Habitat stressors that will have the most impact on the species, primarily sea level rise and high tide flooding will occur in the future with some habitat degradation occurring at intermediate and high climate scenarios in 2040 and habitat loss occurring across most of the species range by 2070. Based on the current condition of the species in Delaware Seashore State Park and Assateague Island National Seashore, we found no biologically meaningful portion of the Bethany Beach firefly's range where the biological condition of the species differs from its condition elsewhere in its range such that the status of the species in that portion differs from any other portion of the species' range.

Therefore, no portion of the species' range provides a basis for determining

that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This does not conflict with the courts' holdings in *Desert Survivors* v. *U.S. Department of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not apply the aspects of the Final Policy, including the definition of ''significant'' that those court decisions held to be invalid.

Determination of Status

Our review of the best available scientific and commercial information indicates that the Bethany Beach firefly meets the Act's definition of a threatened species. Therefore, we propose to list the Bethany Beach as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition as a listed species, planning and implementation of recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, foreign governments, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies, including the Service, and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) may be established to develop and implement recovery plans. The recovery planning process involves the identification of actions that are necessary to halt and reverse the species' decline by addressing the threats to its survival and recovery. The recovery plan identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery outline, draft recovery plan, final recovery plan, and any revisions will be available on our website as they are completed (*https://www.fws.gov/program/endangered-species*), or from our Chesapeake Bay Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

If this species is listed, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Delaware, Maryland, and Virginia would be eligible for Federal funds to implement management actions that promote the protection or recovery of the Bethany Beach firefly. Information on our grant programs that are available to aid species recovery can be found at: *https://www.fws.gov/service/financial-assistance.*

Although the Bethany Beach firefly is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7 of the Act is titled, ''Interagency Cooperation,'' and it mandates all Federal action agencies to use their existing authorities to further the conservation purposes of the Act and to ensure that their actions are not likely to jeopardize the continued existence of listed species or adversely modify critical habitat. Regulations implementing section 7 are codified at 50 CFR part 402.

Section 7(a)(2) states that each Federal action agency shall, in consultation with the Secretary, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Each Federal agency shall review its action at the earliest possible time to determine whether it may affect listed species or critical habitat. If a determination is made that the action may affect listed species or critical habitat, formal consultation is required (50 CFR 402.14(a)), unless the Service concurs in writing that the action is not likely to adversely affect listed species or critical habitat. At the end of a formal consultation, the Service issues a biological opinion, containing its determination of whether the Federal action is likely to result in jeopardy or adverse modification.

In contrast, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. Although the conference procedures are required only when an action is likely to result in jeopardy or adverse modification, action agencies may voluntarily confer with the Service on actions that may affect species proposed for listing or critical habitat proposed to be designated. In the event that the subject species is listed or the relevant critical habitat is designated, a conference opinion may be adopted as a biological

opinion and serve as compliance with section 7(a)(2) of the Act.

Examples of discretionary actions for the Bethany Beach firefly that may be subject to conference and consultation procedures under section 7 are land management or other landscape-altering activities on Federal lands administered by the National Park Service and NASA, as well as actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation. Federal agencies should coordinate with the Chesapeake Bay Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**) with any specific questions on section 7 consultation and conference requirements.

II. Protective Regulations Under Section 4(d) of the Act

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of species listed as threatened species. Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. With these two sentences in section 4(d), Congress delegated broad authority to the Secretary to determine what protections would be necessary and advisable to provide for the conservation of threatened species, and even broader authority to put in place any of the section 9 prohibitions for a given species.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 WL 2344927 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [her] with regard to the permitted activities for those species. [She] may, for example, permit taking, but not importation of such species, or [she] may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

The provisions of this species' proposed protective regulations under section 4(d) of the Act are one of many tools that we would use to promote the conservation of the Bethany Beach firefly. The proposed protective regulations would apply only if and when we make final the listing of the Bethany Beach firefly as a threatened species. Nothing in 4(d) rules change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or the ability of the Service to enter into partnerships for the management and protection of the Bethany Beach firefly. As mentioned previously in Available Conservation Measures, section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, even before the listing of any species or the designation of its critical habitat is finalized, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. These requirements are the same for a threatened species regardless of what is included in its 4(d) rule.

Section 7 consultation is required for Federal actions that ''may affect'' a listed species regardless of whether take caused by the activity is prohibited or excepted by a 4(d) rule (under general application of the ''blanket rule'' option (for more information, see 89 FR 23919, April 5, 2024) or a species-specific 4(d) rule). A 4(d) rule does not change the process and criteria for informal or formal consultations and does not alter the analytical process used for biological opinions or concurrence letters. For example, as with an endangered species, if a Federal agency determines that an action is ''not likely to adversely affect'' a threatened species, this will require the Service's written concurrence (50 CFR 402.13(c)). Similarly, if a Federal agency determinates that an action is ''likely to adversely affect'' a threatened species, the action will require formal consultation with the Service and the formulation of a biological opinion (50 CFR 402.14(a)). Because consultation obligations and processes are unaffected by 4(d) rules, we may consider developing tools to streamline future intra-Service and interagency consultations for actions that result in forms of take that are not prohibited by the 4(d) rule (but that still require consultation). These tools may include consultation guidance, Information for Planning and Consultation effects determination keys, template language for biological opinions, or programmatic consultations.

Provisions of the Proposed 4(d) Rule

Exercising the Secretary's authority under section 4(d) of the Act, we have developed a proposed rule that is designed to address the Bethany Beach firefly's conservation needs. As discussed previously in Summary of Biological Status and Threats, we have concluded that the Bethany Beach firefly is likely to become in danger of extinction within the foreseeable future primarily due to climate change, which includes more frequent and increased storm intensities and high tide flooding, rising sea levels causing periodic and/or total inundation, saltwater intrusion, and increased temperatures and drought. Urban development and changes in land cover, light pollution, recreational activities, pesticides, invasive plants, shoreline erosion control (including constructed dunes and sand fencing), and increased temperatures and drought (compounded by the effects of small population size) are also threats to the species.

Section 4(d) requires the Secretary to issue such regulations as she deems necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(1) of the Act prescribes for endangered species. We are not required to make a ''necessary and advisable'' determination when we apply or do not apply specific section 9 prohibitions to a threatened species (*In re: Polar Bear Endangered Species Act Listing and 4(d) Rule Litigation,* 818 F. Supp. 2d 214, 228 (D.D.C. 2011) (citing *Sweet Home Chapter of Cmtys. for a Great Or.* v. *Babbitt,* 1 F.3d 1, 8 (D.C. Cir. 1993), *rev'd on other grounds,* 515 U.S. 687 (1995))). Nevertheless, even though we are not required to make such a determination, we have chosen to be as transparent as possible and explain below why we find that, if finalized, the protections, prohibitions, and exceptions in this proposed rule as a whole would satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the Bethany Beach firefly.

The protective regulations we are proposing for the Bethany Beach firefly incorporate prohibitions from section 9(a)(1) to address the threats to the species. The prohibitions of section 9(a)(1) of the Act, and implementing regulations codified at 50 CFR 17.21, make it illegal for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed any of the following acts with regard to any endangered wildlife: (1) import into, or export from, the United States; (2) take (which includes harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct) within the United States, within the territorial sea of the United States, or on the high seas; (3) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such wildlife that has been taken illegally; (4) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity; or (5) sell or offer for sale in interstate or foreign commerce. This protective regulation includes all of these prohibitions because the Bethany Beach firefly is at risk of extinction within the foreseeable future and putting these prohibitions in place will help to prevent further declines, preserve the species' remaining populations, slow its rate of decline, and decrease synergistic, negative effects from other ongoing or future threats.

In particular, this proposed 4(d) rule would provide for the conservation of the Bethany Beach firefly by prohibiting the following activities, unless they fall within specific exceptions or are otherwise authorized or permitted: importing or exporting; take; possession and other acts with unlawfully taken specimens; delivering, receiving, carrying, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce.

Under the Act, ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Some of these provisions have been further defined in regulations at 50 CFR 17.3. Take can result knowingly or otherwise, by direct and indirect impacts, intentionally or incidentally. Regulating take would help preserve the species' remaining populations, slow their rate of decline, and decrease cumulative effects from other ongoing or future threats. Therefore, we propose to prohibit take of the Bethany Beach firefly, except for take resulting from those actions and activities specifically excepted by the 4(d) rule.

Exceptions to the prohibition on take would include all of the general exceptions to the prohibition on take of endangered wildlife, as set forth in 50 CFR 17.21 and additional exceptions, as described below.

Despite these prohibitions regarding threatened species, we may under certain circumstances issue permits to carry out one or more otherwise-prohibited activities, including those described above. The regulations that govern permits for threatened wildlife state that the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened species. These include permits issued for the following purposes: for scientific purposes, to enhance propagation or survival, for economic hardship, for zoological exhibition, for educational purposes, for incidental taking, or for special purposes consistent with the purposes of the Act (50 CFR 17.32). The statute also contains certain exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

In addition, to further the conservation of the species, any employee or agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, a State conservation agency, or a federally recognized Tribe, who is designated by their agency or Tribe for such purposes, may, when acting in the course of their official duties, take threatened wildlife without a permit if such action is necessary to: (i) Aid a sick, injured, or orphaned specimen; (ii) dispose of a dead specimen; (iii) salvage a dead specimen that may be useful for scientific study; or (iv) remove specimens that constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner. Such taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live capturing and releasing the specimen unharmed, in an appropriate area.

We recognize the special and unique relationship that we have with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working relationships with local governments and landowners, are in a unique position to assist us in implementing all aspects of the Act. In this regard, section 6 of the Act provides that we must cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with us in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, would be able to conduct activities designed to conserve the Bethany Beach firefly that may result in otherwise prohibited take without additional authorization.

The proposed 4(d) rule would also provide for the conservation of the species by allowing exceptions that incentivize conservation actions or that, while they may have some minimal level of take of the Bethany Beach firefly, are not expected to rise to the level that would have a negative impact (*i.e.,* would have only de minimis impacts) on the species' conservation. The proposed exceptions to these prohibitions include (1) take associated with conducting surveys; and (2) take associated with mechanical removal of invasive plants and woody vegetation. These proposed excepted activities are expected to have negligible impacts to the Bethany Beach firefly and its habitat.

Species-Specific Incidental Take Exceptions

The first proposed exception is for take associated with research and conservation activities to benefit Bethany Beach firefly conducted by an organization or individual, working cooperatively with a State conservation agency that is operating a conservation program pursuant to an approved cooperative agreement with the Service as set forth in § 17.31(b). The organization or individual must have obtained a permit from the State conservation agency, and the research activity is carried out in compliance with all terms and conditions of the State permit.

Research and conservation activities can include but are not limited to: population monitoring (including surveys and handling species); tissue collection for genetic analysis (removal of a leg). Our local Ecological Services Field Offices will meet annually with the State, or more frequently as warranted, to determine whether permit conditions need to be revised or updated based on the projects permitted the previous year. The State will also provide reports associated with permits, if requested by the Ecological Services Field Office.

The second proposed exception is for control of invasive plants and removal of native or invasive woody vegetation. These activities could be implemented in Bethany Beach firefly habitat at any time of the year, but they would have to be performed through mechanical removal using hand-operated machinery. When conducted appropriately, these activities are considered beneficial to the native ecosystem and are likely to improve habitat conditions for the species; therefore, mechanical removal of vegetation using hand-operated machinery is not expected to impair the species' conservation.

As mentioned above, nothing in this proposed 4(d) rule would change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or our ability to enter into partnerships for the management and protection of the Bethany Beach firefly. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between us and other Federal agencies, where appropriate. We ask the public, particularly State agencies and other interested stakeholders that may be affected by the proposed 4(d) rule, to provide comments and suggestions regarding additional guidance and methods that we could provide or use, respectively, to streamline the implementation of this proposed 4(d) rule (see Information Requested, above).

III. Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that each Federal action agency ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal agency would have already been required to consult with the Service even absent the designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the listed species. Even if the Service were to conclude after consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General

Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information compiled in the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in the 4(d) rule. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of the species. Similarly, critical habitat designations made on the basis of the best scientific data available at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available at the time of those planning efforts calls for a different outcome.

Critical Habitat Determinability

We determine that designating critical habitat for the Bethany Beach firefly is prudent. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

We reviewed the available information pertaining to the biological needs of the Bethany Beach firefly and habitat characteristics where this species is located. The species' habitat is well described and mapped in Maryland and Delaware. In Virginia, swale habitat is not mapped and not apparent when viewing National Wetland Inventory (NWI) layers or aerial imagery. Surveys in Virginia were conducted by roadsides and at vantage points where large expanses of wetlands could be seen. The purposes of the surveys were to document presence of the species. The species may be using different NWI habitat types that meet basic needs but are in a different arrangement. Field verification of habitat and additional surveys at these sites in Virginia will occur during the summer of 2024 and will inform a proposed critical habitat designation for the Bethany Beach firefly. Therefore, because we currently lack sufficient information on swale habitat in Virginia, we conclude that the designation of critical habitat for the Bethany beach firefly is not determinable at this time. The Act allows the Service an additional year to publish a critical habitat designation that is not determinable at the time of listing (16 U.S.C. 1533(b)(6)(C)(ii)).

Required Determinations

Clarity of the Rule

We are required by E.O.s 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations and species-specific protective regulations promulgated concurrently with a decision to list or reclassify a species as threatened. The courts have upheld this position (*e.g., Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995) (critical habitat); *Center for Biological Diversity* v. *U.S. Fish and Wildlife Service,* 2005 WL 2000928 (N.D. Cal. August 19, 2005) (concurrent 4(d) rule)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), E.O. 13175 (Consultation and Coordination with Indian Tribal Governments), the President's memorandum of November 30, 2022 (Uniform Standards for Tribal Consultation; 87 FR 74479, December 5, 2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations (ANCs) on a government-to-government basis. In accordance with Secretary's Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly

with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have determined that no Tribal lands fall within the boundaries of the current range of the Bethany Beach firefly, so no Tribal lands would be affected by the proposed listing of this species at this time.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* and upon request from the Chesapeake Bay Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

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

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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

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

■ 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by adding an entry for ''Firefly, Bethany Beach'' in alphabetical order under INSECTS to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
Insects				
*	*	*	*	*
Firefly, Bethany Beach ..	*Photuris bethaniensis* ..	Wherever found	T	[**Federal Register** citation when published as a final rule]; 50 CFR 17.47(j).[4d]
*	*	*	*	*

■ 3. Further amend § 17.47, as proposed to be amended August 6, 2024, at 89 FR 63888, by adding a paragraph (j) to read as follows:

§ 17.47 Species-specific rules—insects.

* * * * *

(j) Bethany Beach firefly (*Photuris bethaniensis*)—(1) *Prohibitions.* The following prohibitions that apply to endangered wildlife also apply to the Bethany Beach firefly. Except as provided under paragraph (j)(2) of this section and §§ 17.4 and 17.5, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.21(b) for endangered wildlife.

(ii) Take, as set forth at § 17.21(c)(1) for endangered wildlife.

(iii) Possession and other acts with unlawfully taken specimens, as set forth at § 17.21(d)(1) for endangered wildlife.

(iv) Interstate or foreign commerce in the course of a commercial activity, as set forth at § 17.21(e) for endangered wildlife.

(v) Sale or offer for sale, as set forth at § 17.21(f) for endangered wildlife.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by a permit under § 17.32.

(ii) Take, as set forth at § 17.21(c)(3) and (4) for endangered wildlife.

(iii) Take, as set forth at § 17.31(b).

(iv) Possess and engage in other acts with unlawfully taken wildlife, as set forth at § 17.21(d)(2) for endangered wildlife.

(v) Take incidental to an otherwise lawful activity caused by:

(A) Research and conservation activities to benefit Bethany Beach firefly conducted by an organization or individual, working cooperatively with a State conservation agency that is operating a conservation program pursuant to an approved cooperative agreement with the Service as set forth in § 17.31(b), when conducted by an organization or individual that has obtained a permit from the State conservation agency, and the research activity is carried out in compliance with all terms and conditions of the State permit. Research activities permitted by the State may include but are not limited to population monitoring (including surveys and handling fireflies to confirm identification); tissue collection for genetic analysis (removal of a leg).

(B) Control of invasive plants and removal of native or invasive woody vegetation. These activities can be implemented in Bethany Beach firefly habitat at any time of the year, but they must be performed through mechanical removal using hand-operated machinery.

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2024–22358 Filed 9–30–24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2024–0107; FXES1111090FEDR–245–FF09E21000]

Endangered and Threatened Wildlife and Plants; 12-Month Not-Warranted Finding for the Las Vegas Bearpoppy

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to list the Las Vegas bearpoppy (*Arctomecon californica*) as an endangered or threatened species under the Endangered Species Act of 1973, as amended (Act). The Las Vegas bearpoppy is a plant in the poppy family. It is endemic to the eastern Mojave Desert in southern Nevada and northwest Arizona. After a thorough review of the best available scientific and commercial information, we find that listing the Las Vegas bearpoppy as an endangered or threatened species is not warranted at this time. However, we ask the public to submit to us at any time any new information relevant to the status of the Las Vegas bearpoppy or its habitat.

DATES: The finding in this document was made on October 1, 2024.

ADDRESSES: A detailed description of the basis for this finding is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2024–0107. Supporting information used to prepare this finding is also available for public inspection, by appointment, during normal business hours at the Southern Nevada Fish and Wildlife Office. Please submit any new information, materials, comments, or questions concerning this finding to the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Glen Knowles, Field Supervisor, Southern Nevada Fish and Wildlife Office, 702–515–5230, *glen_knowles@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Background

Under section 4(b)(3)(B) of the Act (16 U.S.C. 1531 *et seq.*), we are required to make a finding on whether or not a petitioned action is warranted within 12 months after receiving any petition that we have determined contains substantial scientific or commercial information indicating that the petitioned action may be warranted (''12-month finding''). We must make a finding that the petitioned action is: (1) Not warranted; (2) warranted; or (3) warranted, but precluded by other listing activity. We must publish a notification of the 12-month finding in the **Federal Register**.

Summary of Information Pertaining to the Five Factors

Section 4 of the Act (16 U.S.C. 1533) and the implementing regulations at part 424 of title 50 of the Code of Federal Regulations (50 CFR part 424) set forth procedures for adding species to, removing species from, or reclassifying species on the Lists of Endangered and Threatened Wildlife and Plants (Lists). The Act defines ''species'' as including any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature. The Act defines ''endangered species'' as any species that is in danger of extinction throughout all or a significant portion of its range (16 U.S.C. 1532(6)), and ''threatened species'' as any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range (16 U.S.C. 1532(20)). Under section 4(a)(1) of the Act, a species may be determined to be an endangered species or a threatened species because of any of the following five factors:

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

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

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

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

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

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition or the action or condition itself. However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary of the Interior determines whether the species meets the Act's definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis, which is further described in the 2009 Memorandum Opinion on the foreseeable future from the Department of the Interior, Office of the Solicitor (M–37021, January 16, 2009; ''M-Opinion,'' available online at *https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37021.pdf*). The foreseeable future extends as far into the future as the U.S. Fish and Wildlife Service and National Marine Fisheries Service (hereafter, the Services) can make reasonably reliable predictions about the threats to the species and the species' responses to those threats. We need not identify the foreseeable future in terms of a specific period of time. We will describe the foreseeable future on a case-by-case basis, using the best available data and taking into account considerations such as the species' life-history characteristics, threat projection timeframes, and environmental variability. In other words, the foreseeable future is the period of time over which we can make reasonably reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction, in light of the conservation purposes of the Act.

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

In conducting our evaluation of the five factors provided in section 4(a)(1) of the Act to determine whether the Las Vegas bearpoppy meets the Act's definition of an ''endangered species'' or a ''threatened species,'' we considered and thoroughly evaluated the best scientific and commercial information available regarding the past, present, and future stressors and threats. We reviewed the petition, information available in our files, and other available published and unpublished information for the species. Our evaluation may include information from recognized experts; Federal, State, and Tribal governments; academic institutions; foreign governments; private entities; and other members of the public.

In accordance with the regulations at 50 CFR 424.14(h)(2)(i), this document announces the not-warranted finding on a petition to list the Las Vegas bearpoppy. We have also elected to include a brief summary of the analysis on which this finding is based. We provide the full analysis, including the reasons and data on which the finding is based, in the decisional file for the Las Vegas bearpoppy. The following is a description of the documents containing this analysis:

The species assessment form for the Las Vegas bearpoppy contains more detailed biological information, a thorough analysis of the listing factors, a list of literature cited, and an explanation of why we determined that the species does not meet the Act's definition of an ''endangered species'' or a ''threatened species.'' To inform our status review, we completed a species status assessment (SSA) report for the species. The SSA report contains a thorough review of the taxonomy, life history, ecology, current status, and projected future status for the Las Vegas bearpoppy. This supporting information can be found on the internet at *https://www.regulations.gov* under the Docket No. FWS–R8–ES–2024–0107.

Previous Federal Actions

We received a petition dated August 14, 2019, from the Center for Biological Diversity requesting that the Las Vegas bearpoppy be listed as an endangered species and that critical habitat be designated for this species under the Act. On July 22, 2020, we published a 90-day finding (85 FR 44265) that the petition contained substantial information indicating that listing may be warranted for the species. This document constitutes our 12-month finding on the August 14, 2019, petition to list the Las Vegas bearpoppy under the Act.

Summary of Finding

The Las Vegas bearpoppy is a plant in the poppy family (*Papaveraceae*), endemic to southern Nevada and northwest Arizona occurring primarily on public lands in the eastern Mojave Desert. We identified 12 population groups made up of 86 known Las Vegas bearpoppy occurrences across the range of the species; each occurrence contains multiple plants. We further divided these groups into four genomic groups based on known genetic data; each genomic group contains unique alleles which contribute to the viability of the species by increasing its ability to adapt to changing conditions.

The species requires open areas with harsh soil conditions unfavorable to many competing species often associated with gypsum soils, but it also has been found in limestone areas in the eastern parts of its range. Populations near the Grand Canyon with limestone substrates are likely an undescribed variation of the broader taxon. The Las Vegas bearpoppy can survive long periods of unreliable but necessary winter precipitation (November through March) through a long-lived seed bank of up to 20 years. Some areas occupied by the species as seeds within the seedbank can appear unoccupied and will only become apparent after adequate winter precipitation and growing conditions allowing adult growth.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats to the Las Vegas bearpoppy, and we evaluated all relevant factors under the five listing factors, including any regulatory mechanisms and conservation measures addressing these threats. The primary threats affecting the Las Vegas bearpoppy's biological status include development, trampling, nonnative plants, and climate change.

In this finding, we summarized the effects of development (including urbanization, mining, and Lake Mead filling) (Factor A); trampling by humans and ungulates (Factor A); climate change (Factor E); habitat fragmentation, pollinator limitation, and genetic consequences (Factor E); nonnative plants (Factor E); and collection (Factor B). In the SSA report, we also discuss the effects of disease (Factor C) and herbivory by small mammals and insects (Factor C). However, disease and herbivory are only affecting some individual plants and not having population-level effects. In this finding, we consider all threats impacting the species, including cumulative effects to the species. For example, activities in areas associated with development and mining may also result in or lead to increased adverse effects from trampling, fragmentation, ungulates, and nonnative plants.

The Las Vegas bearpoppy is currently found in 12 population groups in Arizona and Nevada. With a deep taproot and a diverse adult reproductive life form that produces a long-lived seed bank, the Las Vegas bearpoppy is well adapted to withstand stochastic climatic events throughout its range. The Las Vegas bearpoppy can exist for many years within the seedbank in areas where it may appear extirpated.

Currently, 7 of the 12 population groups across the range are in high or very-high overall habitat condition, meaning that they are experiencing limited impacts from threats and have over 90 percent of habitat available and undisturbed. An additional 2 population groups are in moderate habitat condition, with moderate impacts from threats and between 50 and 90 percent of undisturbed habitat. This indicates that the species is able to withstand environmental or demographic stochastic events, has sufficient redundancy to withstand catastrophic events, and has sufficient representation to adapt to near-term changing conditions. Where available, demographic data indicate stable or increasing populations.

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we conclude that the Las Vegas bearpoppy maintains resilient populations across its range. Though the species is being impacted by threats such as development, trampling, and mining, those threats are occurring in only a few population groups, mostly in close proximity to the Las Vegas area. Currently, 7 of 12 population groups are in high or very-high overall habitat condition across the range, indicating

that the species is able to withstand stochastic events. Additionally, the species remains extant across its range and has sufficient redundancy to withstand catastrophic events. The species also maintains its environmental and genetic representation from its historical condition; thus, it retains its ability to adapt to near-term changing conditions. Thus, after assessing the best available information, we conclude that the Las Vegas bearpoppy is not in danger of extinction throughout all of its range.

Therefore, we proceed with determining whether Las Vegas bearpoppy is likely to become endangered within the foreseeable future throughout all of its range. We consider the foreseeable future for this species to be approximately 50 years, which is the timeframe in which we can make reasonably reliable predictions about the threats to the species, as well as the species' response to those threats.

In our future condition analysis, we considered effects from urbanization, mining, trampling, and land management and conservation efforts. We considered two future scenarios that represent the plausible range of future conditions that may influence the viability of the Las Vegas bearpoppy. Scenario 1 includes increasing effects from urbanization and similar levels of mining, trampling, and other threats to the current condition. Scenario 2 includes additional effects from urbanization above what is forecast in scenario 1, increased effects from mining and trampling, and a decrease in favorable winter precipitation. Under scenario 1, 7 of the 12 population groups remain in high or very-high overall habitat condition. Under scenario 2, 5 of the 12 population groups remain in high or very-high overall habitat condition with reductions in 2 population groups in the western areas of the range near metropolitan Las Vegas. Overall, we expect that there will be some reduction of redundancy and representation in the future from the current conditions, but the magnitude of these changes is unlikely to dramatically increase extinction risk for the species in the next approximately 50 years. No population groups are expected to become extirpated.

Under both plausible future scenarios, between five and seven population groups will remain in high and very-high condition, and in the scenario with higher projected impacts from threats, two populations will decrease to moderate condition. No population groups are expected to be extirpated under either future scenario. Though there may be shifts in rainfall due to climate change and some potential decreases in population growth rates, population models show that the species is likely to continue to display positive growth rates even under more extreme climate scenarios. Therefore, though there may be some decreases in population resiliency and species redundancy in the foreseeable future, the Las Vegas bearpoppy is expected to maintain enough resiliency, redundancy, and representation such that it will maintain viability. After assessing the best available information, we conclude that the Las Vegas bearpoppy is not likely to become endangered within the foreseeable future throughout all of its range.

Having determined that the Las Vegas bearpoppy is not in danger of extinction or likely to become so within the foreseeable future throughout all of its range, we now consider whether it may be in danger of extinction or likely to become so within the foreseeable future throughout a significant portion of its range—that is, whether there is any portion of the species' range for which it is true that both (1) the portion is significant; and (2) the species is in danger of extinction now or likely to become so within the foreseeable future in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

In undertaking this analysis for the Las Vegas bearpoppy, we began by identifying portions of the range where the biological status of the species may be different from its biological status elsewhere in its range. For this purpose, we considered information pertaining to the geographic distribution of (a) individuals of the species, (b) the threats that the species faces, and (c) the resiliency condition of populations.

We evaluated the range of the Las Vegas bearpoppy to determine if the species is in danger of extinction now or likely to become so within the foreseeable future in any portion of its range. Because the range of a species can theoretically be divided into portions in an infinite number of ways, we focus our analysis on portions of the species' range that contribute to the conservation of the species in a biologically meaningful way. Due to the connectivity of population groups within each genomic group, apparent from the generally broad expansive areal distributions of clustered genetically similar individuals, we found the most biologically appropriate scale for the Las Vegas bearpoppy to be the genomic group scale. We then considered whether the threats or their effects on the species are greater in any genomic group than in other genomic groups such that the species is in danger of extinction now or likely to become so in the foreseeable future in that portion.

We first considered whether the species may be in danger of extinction throughout a significant portion of its range. The primary current threats to the Las Vegas bearpoppy are urbanization, trampling, and climate change. We examined those threats along with the effects from mining, Lake Mead filling, habitat fragmentation, pollinator limitation, genetic consequences, nonnative plants, collection, disease, and herbivory by small mammals and insects, including cumulative effects, and considered whether conservation efforts and regulatory mechanisms ameliorated any of the effects.

We found one biologically meaningful portion of the range of the Las Vegas bearpoppy where the biological condition and subsequent extinction risk of the species differs from its condition elsewhere in its range such that the status of the species in that portion may differ from the status within the rest of the range. The Northwest genomic group of the Las Vegas bearpoppy may have a higher current risk of extinction than the rest of the range. This genomic group contains the Las Vegas Dunes, Las Vegas Valley, and Sunrise Valley population groups. In this genomic group, habitat modification and destruction due to urbanization has affected the Las Vegas Valley population group. Disturbance associated with trampling is occurring in all three population groups. All three population groups are currently in low condition.

After identifying a portion of the range where the species has a potentially different status than within the remainder of the range, we considered whether or not that portion is a ''significant portion of the range'' of the Las Vegas bearpoppy. The Service's most recent definition of ''significant'' within agency policy guidance has been invalidated by court order (see *Desert Survivors* v. *U.S. Department of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018)). Therefore, in light of the court decision, for the purposes of this analysis when considering whether this portion is ''significant,'' we considered whether the portion may (1) contain a large geographic portion of the

range relative to the entire range for the species; (2) contain high-quality or high-value habitat relative to the remaining portions of the range; or (3) occur in a unique habitat or ecoregion for the species.

Collectively, the Northwest genomic group makes up 32 percent of suitable habitat in the entire range of the Las Vegas bearpoppy. In addition, these population groups are made up largely of habitat that has been fragmented or degraded by development and anthropogenic trampling. Thus, they do not contain high-quality or high-value habitat relative to the remainder of the range. They also do not contain any unique or unusual habitat for the taxon, nor do they contain any habitat essential to any life-history functions that is not found in any other portions. Therefore, this portion is not a significant portion of the range.

We next considered whether the Las Vegas bearpoppy is likely to become an endangered species within the foreseeable future throughout a significant portion of its range. We found two genomic groups, the Northeast and Northwest, where the Las Vegas bearpoppy may differ from the status of the rest of the range.

When looking more closely at the Northeast genomic group (which contains the Bitter Spring Valley, Gale Hills, Gold Butte, Government Wash, Valley of Fire, and White Basin population groups), we conclude that the biological condition of the species differs from its condition elsewhere in its range, such that the status of the species in that portion may differ from its status in any other portion of the species' range. Under future scenario 2, which projects a higher magnitude of threats and lower conservation, the White Basin population group decreases from high to low condition, and the Gale Hills population group decreases from high to moderate condition. However, two of the remaining population groups in the genomic group remain in high condition, and the other two remain in moderate condition. Additionally, we define a population group in moderate condition to still maintain between 50 and 90 percent available habitat, and less than 50 percent of habitat affected by disturbance. Therefore, we conclude that the Northeast genomic group will maintain at least moderate population resiliency across most of its range. With four of six population groups projected to be in high condition in this future scenario, and the fifth group in moderate condition, the genomic group is projected to maintain similarly high redundancy to the current condition. In regard to representation, little to no decrease in environmental or genetic representation would be expected. This is because similar genomic and environmental conditions are found in the remainder of the genomic group, which is projected to be in high condition. Overall, we conclude that this genomic group does not have a different status than the remainder of the range.

We then considered the status of the Northwest genomic group within the foreseeable future as a significant portion of the species' range. In the foreseeable future, this genomic group will likely continue to lose population resiliency, as these population groups are located near urbanized areas with the highest exposure to development and trampling. These population groups may also experience a lowered resiliency in the form of lowered growth rates because they are at the lower range of precipitation for the species. However, as stated above, this portion of the range is not a ''significant portion of the range.''

Therefore, we find that the species is not in danger of extinction or likely to become so within the foreseeable future in any significant portion of its range. This does not conflict with the courts' holdings in *Desert Survivors* v. *Department of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018), and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not apply the aspects of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014), including the definition of ''significant'' that those court decisions held to be invalid.

After assessing the best available information, we concluded that the Las Vegas bearpoppy is not in danger of extinction or likely to become in danger of extinction throughout all of its range or in any significant portion of its range. Therefore, we find that listing the Las Vegas bearpoppy as an endangered species or threatened species under the Act is not warranted. A detailed discussion of the basis for this finding can be found in the Las Vegas bearpoppy species assessment form and other supporting documents on *https://www.regulations.gov* under Docket No. FWS–R8–ES–2024–0107 (see **ADDRESSES**, above).

Peer Review

In accordance with our July 1, 1994, peer review policy (59 FR 34270; July 1, 1994) and the Service's August 22, 2016, Director's Memo on the Peer Review Process, we solicited independent scientific reviews of the information contained in the Las Vegas bearpoppy SSA report. The Service sent the SSA report to four independent peer reviewers and received no responses.

New Information

We request that you submit any new information concerning the taxonomy of, biology of, ecology of, status of, or stressors to the Las Vegas bearpoppy to the person specified above under **FOR FURTHER INFORMATION CONTACT**, whenever it becomes available. New information will help us monitor the species and make appropriate decisions about its conservation and status. We encourage local agencies and stakeholders to continue cooperative monitoring and conservation efforts.

References

A complete list of the references used in this petition finding is available in the species assessment form, which is available on the internet at *https://www.regulations.gov* under Docket No. FWS–R8–ES–2024–0107 (see **ADDRESSES**, above) and upon request from the field office (see **FOR FURTHER INFORMATION CONTACT**, above).

Authors

The primary authors of this document are the staff members of the Species Assessment Team, Ecological Services Program.

Authority

The authority for this action is section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2024–22405 Filed 9–30–24; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 89, No. 190
Tuesday, October 1, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Employment Records Collection From Implementing Partners of Contracts in Afghanistan

AGENCY: United States Agency for International Development (USAID).

ACTION: Notice of OMB approval.

SUMMARY: In accordance with the emergency review procedures of the Paperwork Reduction Act of 1995 (PRA), USAID is requesting emergency approval from the Office of Management and Budget (OMB) for a new data collection survey on employees of the Implementing Partners of USAID contracts in Afghanistan for the purpose of facilitating the Special Immigrant Visa (SIV) Chief Of Mission (COM) approval process overseen by the Department of State.

DATES: USAID plans to collect this information starting from October, 2024.

FOR FURTHER INFORMATION CONTACT: Sulieman Hedayat, Afghanistan Partner Relocation Task Force's SIV inbox: *afghansiv@usaid.gov* and 202–712–1914

SUPPLEMENTARY INFORMATION: Pursuant to 5 CFR 1320.13, the Agency submitted a request for emergency approval to collect new information on the employment records of full-time Afghan employees from USAID contractors in Afghanistan.

Description of Proposed Use of Information: The information will include employee details such as dates of employment and contract number, which will be used to verify employment as part of the COM approval step of the SIV application process. This information will be collected via email through encrypted Microsoft Excel spreadsheets.

Estimated Time Burden: The total amount of time estimated for this data collection is less than 1,000 hours (considered at 3 hours per partner for an estimated 300 contractors).

Kevin Brownawell,

Executive Director, Afghan Partner Relocation Task Force, USAID.

[FR Doc. 2024–22442 Filed 9–30–24; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–LP–23–0027]

Soybean Promotion, Research, and Information Program: Results of Soybean Request for Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The results of the Agricultural Marketing Service's (AMS) Request for Referendum indicate that too few soybean producers wanted a referendum on the Soybean Promotion and Research Order (Order) for one to be conducted. The Request for Referendum was conducted from May 6, 2024, through May 31, 2024, at the U.S. Department of Agriculture's (USDA) Farm Service Agency County offices. To trigger a referendum, 41,336 soybean producers, which represents 10 percent of the total nationwide soybean producers, needed to complete a valid Request for Referendum. The total number of soybean producers participating in the referendum was 229. The number of valid petitions received was 207.

FOR FURTHER INFORMATION CONTACT: Jason Julian, Research and Promotion Division, Livestock and Poultry Program, AMS, USDA, Room 2092–S, STOP 0249, 1400 Independence Avenue SW, Washington, DC 20250–0249; Telephone: (202) 731–2149; or Email: *Jason.Julian@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Soybean Promotion, Research, and Consumer Information Act (Act) (7 U.S.C. 6301 *et seq.*), every 5 years the Secretary of Agriculture (Secretary) gives soybean producers the opportunity to request a referendum on the Order. If the Secretary determines that at least 10 percent of U.S. producers engaged in growing soybeans (not in excess of one-fifth of which may be producers in any one State) support the conduct of a referendum, the Secretary must conduct a referendum within one year of that determination. If these requirements are not met, a referendum is not conducted.

A notice of opportunity to Request a Soybean Referendum was published in the **Federal Register** (89 FR 7353) on February 2, 2024. To be eligible to participate in the Request for Referendum, producers or the producer entity that they are authorized to represent must provide supporting documentation showing that they or the producer entity they represent paid an assessment sometime during the representative period between January 1, 2022, and December 31, 2023. Based on data from USDA's Farm Service Agency, there are 413,358 soybean producers in the United States.

A total of 229 producers participated in the Request for Referendum. Only 207 valid requests for a referendum were completed by eligible soybean producers. This number does not meet the requisite number of 41,336. Therefore, based on the results, a referendum will not be conducted. In accordance with the provisions of the Act, soybean producers will be provided another opportunity to request a referendum in 5 years.

The following are the State-by-State results of the Request for Referendum:

State	Valid ballots
Alabama	0
Alaska	0
Arizona	0
Arkansas	0
California	0
Colorado	0
Connecticut	0
Delaware	0
Florida	0
Georgia	0
Hawaii	0
Idaho	0
Illinois	35
Indiana	33
Iowa	46
Kansas	2
Kentucky	7
Louisiana	0
Maine	0
Maryland	4
Massachusetts	0
Michigan	1
Minnesota	27
Mississippi	0
Missouri	12
Montana	0

State	Valid ballots
Nebraska	4
Nevada	0
New Hampshire	0
New Jersey	0
New Mexico	0
New York	0
North Carolina	0
North Dakota	2
Ohio	14
Oklahoma	0
Oregon	0
Pennsylvania	2
Rhode Island	0
South Carolina	0
South Dakota	12
Tennessee	0
Texas	1
Utah	0
Vermont	0
Virginia	0
Washington	0
West Virginia	0
Wisconsin	5
Wyoming	0

Authority: 7 U.S.C. 6301–6311.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–22453 Filed 9–30–24; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–TM–24–0060]

USDA Farmers Market Application; Notice of Request for an Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (AMS) intention to request approval, from the Office of Management and Budget, for an extension and revision of the currently approved information collection for USDA Farmers Market Application.

DATES: Comments on this notice must be received by December 2, 2024 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit comments concerning this notice by using the electronic process available at *https://www.regulations.gov* or mailed to ToiAyna Thompson, Market Manager, Transportation and Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 1097 South Building, Washington, DC 20250. Comments should reference the document number and the date and the page number of this issue of the **Federal Register**. All comments will be available for public inspection in person at USDA–AMS, Transportation and Marketing Programs, Marketing Services Division, Room 4523-South Building, 1400 Independence Ave. SW, Washington, DC, from 9 a.m. to 12 noon and from 1 p.m. to 4 p.m., Monday through Friday, (except official Federal holidays) or can be viewed at *https://www.regulations.gov*. Persons wanting to visit the USDA South Building to view comments received are requested to make an appointment in advance by calling (202) 690–1300. Comments submitted in response to this notice will be posted without change, including any personal information provided, at *https://www.regulations.gov* and will be included in the record and made available to the public. Please be advised that the identity of the individuals or entities submitting the comments will be made public. Comments may be submitted anonymously.

FOR FURTHER INFORMATION CONTACT: ToiAyna Thompson, Market Manager, Transportation and Marketing Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 1097 South Building, Washington, DC 20250. Telephone 202–7450–7691.

SUPPLEMENTARY INFORMATION:

Title: USDA Farmers Market Application.

OMB Number: 0581–0229.

Expiration Date of Approval: September 30, 2024.

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

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) directs and authorizes the Secretary of Agriculture to conduct, assist, and foster research, investigation, and experimentation to determine the best methods of processing, preparation for market packaging, handling, transporting, distributing, and marketing agricultural products, 7 U.S.C. 1622(a). Moreover, 7 U.S.C.1622(f) directs and authorizes the Secretary to conduct and cooperate in consumer education for more effective utilization and greater consumption of agricultural products. In addition, 7 U.S.C. 1622(n) authorizes the Secretary to conduct services and to perform activities that will facilitate the marketing and utilization of agricultural products through commercial channels.

On December 23, 2005, the AMS published a final rule in the **Federal Register** (70 FR 76129) to implement established regulations and procedures under 7 CFR part 170 for AMS to operate the USDA Farmers Market, specify vendor criteria and selection procedures, and define guidelines to be used for governing the USDA Farmers Market. In conjunction, the USDA Farmers Market Application was developed to receive information from farmers and small business owners who are interested in participating in the market. Prospective vendors fill out the Application online once per year. Copies of this one-time yearly application form to participate in the U.S. Department of Agriculture (USDA) Farmers Market may be obtained by calling the AMS Transportation and Marketing Program contact listed in **FOR FURTHER INFORMATION** section or visiting *https://www.usda.gov/farmersmarket.*

The information collected on the Application allows AMS the means to review and select participants for the annual market season. The type of information requested on the Application includes: (1) Certification the applicant is the owner or representative of the farm or business; (2) applicant contact information including name(s), address, phone number, and email address; (3) farm or business location; (4) types of products grown or to be sold; (5) business practices and direct sourcing relationships with local farmers, ranchers and growers; (6) weekly sales data; (7) insurance coverage; and (8) all applicable food safety documents. Vendors selected to the market provide a signed copy of the Participant Agreement, which states that the vendor has read, understands and agrees to adhere to all applicable rules and guidelines as outlined in the USDA Farmers Market Rules, Procedures, and Operating Guidelines. Sales Data is collected from vendors weekly. This information is useful in letting AMS know how well the market and vendors are doing overall.

We collect sales data at the beginning of every market day from the previous week. This is collected on an Excel spreadsheet that is stored by market manager. It then gets documented in a shared office file, that tracks the sales all season. Collecting sales gives us feedback as to how each vendor did each week and the success of the market each year. We use these numbers to determine the success of the market, the marketing strategies of each vendor, and uniqueness of each product. It is also

noted with a quick snapshot of the weather for each corresponding day, to determine if the sales were affected by extreme rain, heat, or any other natural disaster that would deter marketgoers from visiting and purchasing from the vendors.

The USDA Farmers Market Customer Satisfaction Questionnaire and the VegUcation Questionnaire will be combined into one survey and submitted under 0581–0269 Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery. The purpose of this survey is to learn who our customers are and what their preferences are in order to improve the USDA Farmers Market. The VegUcation classes take place weekly at the USDA Farmers Market and are free for anyone to attend and are taught by USDA subject matter experts. The purpose is to learn how familiar attendees are with the featured fruit or vegetable, if they found the class valuable, and if their attendance affected their market purchases. The Vendor Satisfaction Survey is used to determine the success of the market from the participating vendors for each season.

Estimate of Burden: The public reporting burden for this collection is estimated to be 7 minutes per response.

Respondents: Farmers and/or small business owners.

Estimated Number of Respondents: 68.

Estimated Total Annual Responses: 1,764.

Estimated Number of Responses per Respondent: 25.98.

Estimated Total Annual Burden on Respondents: 201.12 hours.

Comments: Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The information collected is used only by authorized employees of the USDA, AMS. All responses to this notice will be summarized and included in the request for OMB approval.

All comments will become a matter of public record.

Melissa Bailey,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2024–22452 Filed 9–30–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Office of Inspector General

Succession, Delegations of Authority, and Signature Authorities

AGENCY: Office of Inspector General (OIG), Department of Agriculture (USDA).

ACTION: Notice.

SUMMARY: On August 1, 2024, pursuant to the Federal Vacancies Reform Act of 1998 and the Inspector General (IG) Act of 1978, as amended, USDAIG Phyllis K. Fong issued IG–1313, Change 9, Succession, Delegations of Authority, and Signature Authorities. This directive supersedes IG–1313, Change 8, dated November 8, 2016, as amended by Assistant Inspector General (AIG) Bulletin C–20–001–1313, dated June 24, 2020; and all previous delegations to the extent that they are inconsistent with this publication. This publication supersedes the USDA OIG's prior notice of succession order.

DATES: The revised directive referenced in this notice was issued on August 1, 2024.

FOR FURTHER INFORMATION CONTACT: Christy A. Slamowitz, Counsel to the IG, USDA, 1400 Independence Avenue SW, Room 441–E, Washington, DC 20250–2308, Telephone: (202) 720–9110.

SUPPLEMENTARY INFORMATION: USDA OIG is issuing this notice to publish an updated line of succession and delegations of authority within USDA OIG. This publication supersedes the prior notice of succession order for USDA OIG published at 85 FR 58331 (September 18, 2020). Accordingly, pursuant to the Federal Vacancies Reform Act of 1998 (5 U.S.C. 3345–3349d) and 5 U.S.C. 401–424, the IG has designated the detailed sequence of succession as follows:

I. During any period in which the USDA IG, dies, resigns, or is otherwise unable to perform the functions and duties of the office (''incapacity''), and unless the President shall designate another officer to perform the functions and duties of the position, the Deputy IG, as the designated first assistant to the IG, shall temporarily perform the IG's functions and duties in an acting capacity, pursuant to and subject to the Federal Vacancies Reform Act (5 U.S.C. 3345–3349d) and 5 U.S.C. 403(h). However, per 5 U.S.C. 3345(b)(1), the Deputy IG does not become the acting IG if, during the 365-day period preceding the IG's incapacity, the Deputy IG served as Deputy IG for less than 90 days and the President has nominated that Deputy IG as the new IG. In the absence of the IG and Deputy IG, the officials designated below, in the order listed, shall become the acting Deputy IG and so shall temporarily perform the functions and duties of the IG. This order may be changed by a delegation in writing by the IG, or by the Deputy IG while acting in the absence of the IG:

1. Assistant IG for Audit (AIG/A);
2. Assistant IG for Investigations (AIG/I);
3. Assistant IG for Analytics and Innovation (AIG/AI);
4. Assistant IG for Management (AIG/M);
5. Counsel to the IG;
6. Deputy Assistant IG for Audit (DAIG/A), by seniority;
7. Deputy Assistant IG for Investigations (DAIG/I);
8. Deputy Assistant IG for Analytics and Innovation (DAIG/AI); and
9. Audit Directors and SACs, alternating, by seniority (*i.e.,* most senior Audit Director, then most senior SAC, then second most senior Audit Director, then second most senior SAC, and so on). For purposes of this paragraph only, the Division Director, Investigations Forensics and Technologies Division, will be counted as a SAC in the order of succession.

Notwithstanding the preceding paragraph, the President also may direct an officer or employee (''employee'') of any OIG (including but not limited to USDA's OIG) to perform the functions and duties of USDA's IG temporarily in an acting capacity pursuant to 5 U.S.C. 403(h)(2)(C). However, such officer or employee must have served in a position in an OIG for not less than 90 days during the 365-day period preceding the date of the IG's incapacity, unless the employee is serving as an Inspector General (but not solely as an acting Inspector General). The employee must also have a rate of pay equal to or greater than the GS–15 level prior to their appointment, and have demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. Finally, in the 30 days prior to the appointment, the president must have given appropriate notice to both Houses

of Congress regarding the substantive rationale for such direction.

If the IG has been placed on non-duty status by the President, the Deputy IG will perform the functions and duties of USDA's IG temporarily in an acting capacity, subject to relevant limitations for acting officers described above related to time serving in an OIG position. If the Deputy IG is unable to perform those functions or if the office is vacant, the President may direct a USDA OIG employee to assume those duties, provided that the employee also meets the requirements described above regarding pay rates and demonstrated ability in relevant areas of expertise, and provided that the employee also meets the requirements above regarding time served in an OIG position, and that they must meet those requirements through service with USDA OIG.

II. For purposes of this order of succession, the designated official is the person holding a permanent appointment to the position. Persons filling positions in an acting capacity do not substitute for officials holding a permanent appointment to a position. If a position is vacant or an official occupying the position on a permanent basis is absent or unavailable, authority passes to the next available official occupying a position in the order of succession.

III. This delegation is not in derogation of any authority residing in the above officials relating to the operation of their respective programs, nor does it affect the validity of any delegations currently in force and effect and not specifically cited as revoked or revised herein.

IV. The authorities delegated herein may not be re-delegated.

Authority: 5 U.S.C. 3345–3349d; 5 U.S.C. 401–424.

Dated: September 26, 2024.

Phyllis K. Fong,

Inspector General.

[FR Doc. 2024–22502 Filed 9–30–24; 8:45 am]

BILLING CODE 3410–23–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; Redistricting Data Program

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 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: Redistricting Data Program.

OMB Control Number: 0607–0988.

Form Number(s): Certification Forms (4), Verification Forms (2) and Feedback Form.

- Phase 4 Certification Form (States with Multiple Congressional Districts).
- Phase 4 Certification Form (States with a Single Congressional District).
- Phase 4 Certification Form (District of Columbia).
- Phase 4 Certification Form (Commonwealth of Puerto Rico).
- Phase 4 Verification Form (Congressional Districts).
- Phase 4 Verification Form (State Legislative Districts).
- RDP Feedback Form

Type of Request: Regular submission, request for a revision of a currently approved collection.

Number of Respondents:

- Solicitation of Non-Partisan Liaisons: 52.
- Collection of Post-2020 Census Congressional and State Legislative District Plans: 52.
- Block Boundary Suggestion Project (BBSP) Delineation Phase: 52.
- BBSP Verification Phase: 52.
- Feedback: 52.

Average Hours per Response:

- Solicitation of Non-Partisan Liaisons: 6 hours.
- Collection of Post-2020 Census Congressional and State Legislative District Plans: 8 hours.
- BBSP Delineation Phase: 124 hours.
- BBSP Verification Phase: 62 hours.
- Feedback: 1 hour.

Burden Hours: 10,452.

- Solicitation of Non-Partisan Liaisons: 312 hours.
- Collection of Post-2020 Census Congressional and State Legislative District Plans: 416 hours.
- BBSP Delineation Phase: 6,448 hours.
- BBSP Verification Phase: 3,224 hours.
- Feedback: 52 hours.

Needs and Uses: The Redistricting Data Program (RDP) is executed under the provisions of title 13, section 141(c) of the United States Code (U.S.C.). Under the provisions of Public Law 94–171, as amended (title 13, United States Code (U.S.C.), section 141(c)), the Secretary of Commerce, who designates this responsibility to the Director of the Census Bureau, is required to provide the ''officers or public bodies having initial responsibility for the legislative apportionment or districting of each state'' with the opportunity to ''identify the geographic areas'' (*e.g.,* Voting Districts (wards and election precincts), congressional and state legislative districts, census blocks) ''for which specific tabulations of population are desired'' and to deliver those counts in a timely manner.

The Solicitation of Non-Partisan Liaisons occurs by mail (U.S. Postal Service) beginning in January 2025 and includes follow up emails to the governors and the majority and minority legislative leadership in the 50 states, the District of Columbia (DC), and the Commonwealth of Puerto Rico (PR). Non-partisan liaisons are appointed through a response to that solicitation letter mailed or emailed to the Census Bureau and signed by the legislative leadership. Once appointed, the liaisons serve as the primary point of contact for the Census Bureau to execute the Collection of Post-2020 Census Congressional and State Legislative District Plans and the BBSP. Additionally, once the liaisons have been appointed, they serve as liaisons through the entire RDP, ending in 2035.

Liaisons are emailed an invitation to submit any updates to their Post-2020 Census Congressional and State Legislative Districts in 2025. This collection is performed every two years. Changes are submitted to the Census Bureau electronically using email to confirm changes or no changes and the Census Bureau's secure online data sharing portal to submit their boundary and data updates when necessary. This process is the same as that used for the prior collection in 2024.

Liaisons are emailed an invitation to participate in the delineation cycle of the BBSP in 2026 and the verification cycle of the BBSP in 2027. Changes are submitted to the Census Bureau electronically using email to report no changes (during the verification cycle) and the Census Bureau's secure online data sharing portal to submit their BBSP updates. The BBSP has not appreciably changed since it last occurred from 2016–2017 as a part of the 2020 RDP.

These activities directly support the Census Bureau's efforts to comply with Public Law 94–171 by providing states, DC, and PR the opportunity to identify

the small area tabulations they need for legislative redistricting and by supplying them with that data in a timely manner. Participation is strictly voluntary. The states, DC, and PR are the only authorities that can choose where and how to draw their district boundaries.

In addition, these activities assist in maintaining the Master Address File/Topologically Integrated Geographic Encoding and Referencing (MAF/TIGER) System, in partnership with tribal, state, and local governments nationwide. Because tribal, state, and local governments have current knowledge of, and data about, where housing growth and change are occurring in their jurisdictions, their input into the overall development of geographic data for the Census Bureau makes a vital contribution. Similarly, those governments are in the best position to work with local geographic boundaries, and they benefit from accurate address and geographic data.

The Census Bureau is adding a feedback component to its geographic partnership programs to allow for the solicitation of feedback to improve the administration of the respective program and potentially reduce the future burden. Liaisons may be asked to provide their feedback on materials, method(s) of data collection, manner of communications, and the usability of the program applications and tools.

Affected Public: State and local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

Legal Authority: Public Law 94–171, as amended (title 13, U.S.C., section 141(c)).

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 0607–0988.

Sheleen Dumas,

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

[FR Doc. 2024–22451 Filed 9–30–24; 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; Boundary and Annexation 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 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: Boundary and Annexation Survey.

OMB Control Number: 0607–0151.

Form Number(s) BAS–6. This is the Consolidated BAS (CBAS) Agreement Form. BASSC–1. This is the Boundary and Annexation Survey (BAS) State Certification State Certifying Official (SCO) Appointment Form. BAS Feedback Form. This is the form used to capture feedback.

Type of Request: Regular submission, request for a revision of a currently approved collection.

Number of Respondents:

- *BAS/State Certification/Boundary Quality Project:* 40,000 governments.
- *Feedback:* 1,000 governments.

Average Hours per Response:

- *BAS/State Certification/Boundary Quality Project:* 7.5 hours. This estimate is based on an average of 5 hours for an eligible government with no changes and 10 hours for an eligible government with changes.
- *Feedback:* 30 minutes.

Burden Hours: 300,500 hours.

- *BAS/State Certification/Boundary Quality Project:* 300,000 hours.
- *Feedback:* 500 hours.

Needs and Uses: The Boundary and Annexation Survey (BAS) provides eligible governments, which include tribal, state, and general-purpose local governments, an opportunity to review the Census Bureau's legal boundary data to ensure the Census Bureau has the correct boundary, name, and status information and make necessary updates. BAS also allows for the review and update of census designated place (CDP) boundaries and linear features. It fulfills the agency's responsibility as part of the National Spatial Data Infrastructure, for which the OMB Circular A–16 designates the Census Bureau as the lead federal agency for maintaining national data about legal government boundaries, as well as statistical and administrative boundaries. It also supports the geospatial data steward responsibilities of the Geospatial Data Act, the Evidence Act, OMB E-Gov, the Federal Geographic Data Committee, *Data.gov, GeoPlatform.gov,* the National Map, the Geographic Names Information System, and the Geospatial One-Stop.

The Census Bureau uses the boundaries collected during BAS to tabulate data for various censuses and surveys including the decennial census and American Community Survey (ACS) as well as the Population Estimates Program (PEP). It also uses the boundaries collected through BAS to support other programs such as the Redistricting Data Program, the Economic Census, the Geographically Updated Population Certification Program, and the Special Census program.

Other federal programs also rely on accurate boundaries collected through BAS. The Department of Housing and Urban Development uses boundaries to determine jurisdictional eligibility for various grant programs, such as the Community Development Block Grant program. In addition, the Department of Agriculture uses boundaries to determine eligibility for various rural housing and economic development programs.

The following collection methods allow the Census Bureau to coordinate among various levels of government to obtain the most accurate legal boundary, CDP, linear feature, and contact information:

- BAS.
- State Certification.
- Boundary Quality Project.

BAS

BAS provides eligible governments, which include tribal, state, and general-purpose local governments, an opportunity to review the Census Bureau's legal boundary data to ensure the Census Bureau has the correct boundary, name, and status information and make necessary updates. BAS also allows for the review and update of CDPs and linear features.

The Census Bureau notifies eligible governments about BAS through email. The email includes program information and directs eligible governments to respond through an online form if they have legal boundary, CDP, linear feature, or contact updates to report. Any eligible government without an email on file with the Census Bureau will be contacted by phone and asked to provide their response.

Those indicating they have updates to provide must create their submission using one of the options listed below.

- *BAS Partnership Toolbox.* The BAS Partnership Toolbox allows eligible governments to create the submission in ArcGIS Pro. The toolbox automates data download, boundary update creation, and exports standardized files for submission.
- *GUPS.* The Geographic Update Partnership Software (GUPS) is a free, customized geographic information system software application provided by the Census Bureau. It is offered as standalone (GUPS Standalone) and online (GUPS Web) applications.
  - GUPS Standalone allows eligible governments to manually create boundary updates and export standardized files for submission.
  - GUPS Web allows eligible governments to manually create boundary updates or import local boundary data to automate the creation of boundary updates and export standardized files for submission.
- *Paper maps.* The Census Bureau will ship large format paper maps and instructions for eligible governments to annotate and return their updates to the Census Bureau. The paper map package includes a letter, materials list insert, large format paper maps covering the extent of the government, supplies to update the paper maps, how-to guide, and postage-paid return envelope.

Eligible governments that do have boundary updates can submit both legal boundary changes and boundary corrections. Legal boundary changes include updates that are a result of any legal action taken by the eligible government(s) to add or remove land to their official boundary. Boundary corrections are updates that are the result of spatial inaccuracies and do not substantially alter the Census Bureau's representation of the boundaries.

Updates created using the BAS Partnership Toolbox, GUPS Standalone, or GUPS Web are returned through the Census Bureau's secure online data sharing portal, while paper maps are returned through the mail.

Eligible governments that do not respond, or those that indicate they have updates to provide, but have not submitted their updates are contacted during nonresponse follow-up by email. The email reminds eligible governments to respond through an online response form or email if they have updates to report. Those that indicated they have updates to report are requested to submit those updates by the March 1 or May 31 deadlines. Refer to the schedule below for a high-level BAS program timeline.

- *January 1*—Legal boundary changes must be in effect on or before this date to be reported in the current survey year.
- *January to May*—The Census Bureau conducts BAS.
- *Early January*—The Census Bureau notifies eligible governments about BAS through email. Eligible governments are contacted through email to determine if they have legal boundary, CDP, linear feature, or contact updates to report. Any eligible government without an email on file with the Census Bureau will be contacted by phone and asked to provide their response.
- *Mid-February, Mid-March, and Mid-April*—The Census Bureau conducts nonresponse follow-up for BAS through email. Eligible governments that have not responded to annual response, along with those that indicated they have updates to report but have not yet submitted those updates, are contacted through email on up to three occasions.
- *March 1*—Legal boundary changes returned by this date will be reflected in the ACS and PEP data and in next year's BAS materials.
- *May 31*—Legal boundary changes returned by this date will be reflected in next year's BAS materials. If time permits, boundary corrections returned by this date may also be shown.

State Certification

The state certification program allows state agencies to verify that the legal boundary, name, and status information received through BAS were reported in accordance with state law. The Census Bureau annually requests that each state governor designate a state certifying official (SCO) to participate in the program. The SCO reviews listings of legal boundary changes, as well as government names and statuses that were submitted through the previous year's BAS. These listings include the attribute information for new incorporations, dissolutions, mergers, consolidations, and legal boundary changes. The listings also include the names and functional statuses of all general-purpose local governments within the state's jurisdiction. The SCO can request that the Census Bureau edit the attribute data, add missing records, or remove invalid records. Invalid records are only removed if the state government maintains an official record of all changes to legal boundaries and governments as mandated by state law. The state certification schedule is as follows:

- *October*—The Census Bureau emails governor's letters requesting the state appoint an SCO to participate in the program.
- *December*—The Census Bureau emails the information required to participate to the SCO.
- *December to February*—The SCO returns submission to the Census Bureau.
- *March*—The Census Bureau distributes discrepancy emails to general-purpose local governments based on feedback from the SCO.

The state certification materials include a governor's letter, an email to the SCO, how-to guide, legal boundary change and government name and status listings, and discrepancy email to local governments. The listings and how-to guide are available on the BAS website. The SCO returns all updates electronically through the Census Bureau's secure online data sharing portal.

Boundary Quality Project

The boundary quality project is designed to assess, analyze, and improve the spatial quality of legal, statistical, and administrative boundaries within the Master Address File/Topologically Integrated Geographic Encoding and Referencing (MAF/TIGER) System. Ensuring quality boundaries is a critical component of the geographic preparations for each decennial census and the Census Bureau's ongoing geographic partnership programs. In addition, the improvement of boundary quality is an essential element of the Census Bureau's commitment as the responsible agency for legal boundaries under OMB Circular A–16.

The project represents an effort to systematically target and assess boundary quality within the MAF/TIGER System. Historically, the Census Bureau relied exclusively on geographic partnership programs such as BAS and the Participant Statistical Areas Program (PSAP) to obtain updates to tribal, state, general-purpose local government, and CDP boundaries. While programs like BAS play an essential role in improving boundary quality, the goal of the boundary quality project is to establish a new, more accurate, baseline for legal boundaries and CDPs within an entire state or county. BAS builds on this baseline by collecting individual legal

boundary changes and CDP updates on a transaction basis as they occur over the years.

For the Census Bureau to complete this project, we would collect spatial data from tribal, state, and general-purpose local governments to improve the quality of the MAF/TIGER System outside the realm of BAS. The only burden on governments for the boundary quality project is in providing their spatial data.

Feedback

The Census Bureau is adding a feedback component to its geographic partnership programs to allow for the solicitation of feedback to improve the administration of the respective program and potentially reduce the future burden. Eligible governments may be asked to provide their feedback on materials, method(s) of data collection, manner of communications, and the usability of the program applications and tools.

Affected Public: Tribal, state, and general-purpose local governments in all fifty states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

Frequency: Annual.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 6.

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 0607–0151.

Sheleen Dumas,

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

[FR Doc. 2024–22527 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Regulations and Procedures Technical Advisory Committee; Notice of Partially Closed Meeting

The Regulations and Procedures Technical Advisory Committee (RPTAC) will meet on October 15, 2024, 9 a.m.–4 p.m., Eastern Daylight Time, in the Herbert C. Hoover Building, Room 3884, 1401 Constitution Avenue NW, Washington, DC (enter through Main Entrance on 14th Street between Constitution and Pennsylvania Avenues). The Committee advises and assists the Secretary of Commerce (Secretary) and other Federal officials and agencies with respect to actions designed to carry out the policy set forth in section 1752(1)(A) of the Export Control Reform Act. The purpose of the meeting is to have Committee members and U.S. Government representatives mutually review updated technical data and policy-driving information that has been gathered.

Agenda

Public Session

1. Opening remarks by the Chairman
2. Opening remarks by the Bureau of Industry and Security
3. Presentations of Papers by the Public
4. Regulations Update
5. Automated Export System Update
6. Working Group Reports

Closed Session

7. Discussion of matters determined to be exempt from the open meeting and public participation requirements found in sections 1009(a)(1) and 1009(a)(3) of the Federal Advisory Committee Act (FACA) (5 U.S.C. 1001–1014). The exemption is authorized by section 1009(d) of the FACA, which permits the closure of advisory committee meetings, or portions thereof, if the head of the agency to which the advisory committee reports determines such meetings may be closed to the public in accordance with subsection (c) of the Government in the Sunshine Act (5 U.S.C. 552b(c)). In this case, the applicable provisions of 5 U.S.C. 552b(c) are subsection 552b(c)(4), which permits closure to protect trade secrets and commercial or financial information that is privileged or confidential, and subsection 552b(c)(9)(B), which permits closure to protect information that would be likely to significantly frustrate implementation of a proposed agency action were it to be disclosed prematurely. The closed session of the meeting will involve committee discussions and guidance regarding U.S. Government strategies and policies.

The open session will be accessible via teleconference. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* (email) or (202) 482–2813 (voice).

A limited number of seats will be available for members of the public to attend the open session in person. Reservations are not accepted.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact Ms. Yvette Springer no later than Tuesday, October 8, 2024, so that appropriate arrangements can be made.

To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of materials to the Committee members, the Committee suggests that members of the public forward their materials prior to the meeting to Ms. Springer via email. Material submitted by the public will be made public and therefore should not contain confidential information. Meeting materials from the public session will be accessible via the Technical Advisory Committee (TAC) site at *https://tac.bis.gov,* within 30-days after the meeting.

The Deputy Assistant Secretary for Administration, performing the non-exclusive functions and duties of the Chief Financial Officer and Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 23, 2024, pursuant to 5 U.S.C. 1009(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. 1009(a)(1) and 1009(a)(3). The remaining portions of the meeting will be open to the public.

Meeting cancellation: If the meeting is cancelled, a cancellation notice will be posted on the TAC website at *https://tac.bis.doc.gov.*

For more information, contact Ms. Springer.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2024–22465 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

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

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) and suspended investigation(s) listed below. The U.S. International Trade Commission (ITC) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s) and suspended investigation(s).

DATES: Applicable October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the ITC, contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (Sunset) Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating the Sunset Reviews of the following antidumping and countervailing duty order(s) and suspended investigation(s):

DOC case No.	ITC case No.	Country	Product	Commerce contact
A–433–813 ...	731–TA–1422	Austria	Strontium Chromate (1st Review) ..	Mary Kolberg, (202) 482–1785.
A–427–830 ...	731–TA–1423	France	Strontium Chromate (1st Review) ..	Mary Kolberg, (202) 482–1785.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerce's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: *https://enforcement.trade.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.

In accordance with section 782(b) of the Act, any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information. Parties must use the certification formats provided in 19 CFR 351.303(g). Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation. Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[1]

Information Required From Interested Parties

Domestic interested parties, as defined in sections 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.[2]

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that Commerce's information requirements are distinct from the ITC's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

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

[2] *See* 19 CFR 351.218(d)(1)(iii).

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: September 20, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–22492 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Review

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

Background

Every five years, pursuant to the Tariff Act of 1930, as amended (the Act), the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission automatically initiate and conduct reviews to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 of the Act would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for November 2024

Pursuant to section 751(c) of the Act, the following Sunset Reviews are scheduled for initiation in November 2024 and will appear in that month's *Notice of Initiation of Five-Year Sunset Reviews* (Sunset Review).

	Department contact
Antidumping Duty Proceedings	
Acetone from Belgium, A–423–814 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Acetone from Korea, A–580–899 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Acetone from Singapore, A–559–808 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Acetone from South Africa, A–791–824 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Acetone from Spain, A–469–819 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Aluminum Wire and Cable from China, A–570–095 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Carbon and Alloy Steel Threaded Rod from China, A–570–104 (1st Review)	Mary Kolberg, (202) 482–1785
Carbon and Alloy Steel Threaded Rod from India, A–533–887 (1st Review)	Mary Kolberg, (202) 482–1785
Carbon and Alloy Steel Threaded Rod from Taiwan, A–583–865 (1st Review)	Mary Kolberg, (202) 482–1785
Carbon and Alloy Steel Threaded Rod from Thailand, A–549–840 (1st Review)	Mary Kolberg, (202) 482–1785
Malleable Iron Pipe Fittings from China, A–570–881 (4th Review)	Mary Kolberg, (202) 482–1785
Mattresses from China, A–570–092 (1st Review)	Thomas Martin, (202) 482–3936
Steel Nails from China, A–570–909 (3rd Review)	Mary Kolberg, (202) 482–1785
Vertical Metal File Cabinets from China, A–570–110 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Welded Stainless Steel Pressure Pipe from China, A–570–930 (3rd Review)	Thomas Martin, (202) 482–3936
Welded Stainless Steel Pressure Pipe from Malaysia, A–557–815 (2nd Review)	Thomas Martin, (202) 482–3936
Welded Stainless Steel Pressure Pipe from Thailand, A–549–830 (2nd Review)	Thomas Martin, (202) 482–3936
Welded Stainless Steel Pressure Pipe from Vietnam, A–552–816 (2nd Review)	Thomas Martin, (202) 482–3936
Countervailing Duty Proceedings	
Aluminum Wire and Cable from China, C–570–096 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Carbon and Alloy Steel Threaded Rod from China, C–570–105 (1st Review)	Mary Kolberg, (202) 482–1785
Carbon and Alloy Steel Threaded Rod from India, C–533–888 (1st Review)	Thomas Martin, (202) 482–3936
Vertical Metal File Cabinets from China, C–570–111 (1st Review)	Jacqueline Arrowsmith, (202) 482–5255
Welded Stainless Steel Pressure Pipe from China, C–570–931 (3rd Review)	Mary Kolberg, (202) 482–1785
Suspended Investigations	
No Sunset Review of suspended investigations is scheduled for initiation in November 2024.	

Commerce's procedures for the conduct of Sunset Review are set forth in 19 CFR 351.218. The *Notice of Initiation of Five-Year (Sunset) Review* provides further information regarding what is required of all parties to participate in Sunset Review.

Pursuant to 19 CFR 351.103(c), Commerce will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact Commerce in writing within 10 days of the publication of the Notice of Initiation.

Please note that if Commerce receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue.

Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation. Note that Commerce has amended certain of its requirements

pertaining to the service of documents in 19 CFR 351.303(f).[1]

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 20, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–22489 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review and Join Annual Inquiry Service List

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

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

SUPPLEMENTARY INFORMATION:

Background

Each year during the anniversary month of the publication of an antidumping duty (AD) or countervailing duty (CVD) order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the U.S. Department of Commerce (Commerce) conduct an administrative review of that AD or CVD order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review (POR). We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating AD rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*i.e.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to: (a) identify which companies subject to review previously were collapsed; and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

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

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[1] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

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

Opportunity To Request a Review: Not later than the last day of October 2024,[2] interested parties may request administrative review of the following orders, findings, or suspended

[1] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

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

[2] Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when Commerce is closed.

investigations, with anniversary dates in October for the following periods:

	Period
Antidumping Duty Proceedings	
AUSTRALIA: Hot-Rolled Steel Flat Products, A–602–809	10/1/23–9/30/24
BRAZIL: Carbon and Certain Alloy Steel Wire Rod, A–351–832	10/1/23–9/30/24
INDIA: Stainless Steel Flanges, A–533–877	10/1/23–9/30/24
INDONESIA: Carbon and Certain Alloy Steel Wire Rod, A–560–815	10/1/23–9/30/24
JAPAN: Hot-Rolled Steel Flat Products, A–588–874	10/1/23–9/30/24
MEXICO: Carbon and Certain Alloy Steel Wire, Rod A–201–830	10/1/23–9/30/24
Refillable Stainless Steel Kegs, A–201–849	10/1/23–9/30/24
MOLDOVA: Carbon and Certain Alloy Steel Wire Rod, A–841–805	10/1/23–9/30/24
REPUBLIC OF KOREA: Hot-Rolled Steel Flat Products, A–580–883	10/1/23–9/30/24
SOCIALIST REPUBLIC OF VIETNAM: Gas Powered Pressure Washers, A–552–008	6/15/23–9/30/24
TAIWAN: Steel Concrete Reinforcing Bar, A–583–859	10/1/23–9/30/24
THAILAND: Glycine, A–549–837	10/1/23–9/30/24
THE NETHERLANDS: Hot-Rolled Steel Flat Products, A–421–813	10/1/23–9/30/24
THE PEOPLE'S REPUBLIC OF CHINA: Barium Carbonate, A–570–880	10/1/23–9/30/24
Barium Chloride, A–570–007	10/1/23–9/30/24
Boltless Steel Shelving Units Prepackaged For Sale, A–570–018	10/1/23–9/30/24
Electrolytic Manganese Dioxide, A–570–919	10/1/23–9/30/24
Polyvinyl Alcohol, A–570–879	10/1/23–9/30/24
Steel Wire Garment Hangers, A–570–918	10/1/23–9/30/24
TRINIDAD AND TOBAGO: Carbon and Certain Alloy Steel Wire Rod, A–274–804	10/1/23–9/30/24
TÜRKIYE: Hot-Rolled Steel Flat Products, A–489–826	10/1/23–9/30/24
UNITED KINGDOM: Hot-Rolled Steel Flat Products, A–412–825	10/1/23–9/30/24
Countervailing Duty Proceedings	
BRAZIL: Carbon and Certain Alloy Steel Wire Rod, C–351–833	1/1/23–12/31/23
INDIA: Stainless Steel Flanges, C–533–878	1/1/23 –12/31/23
IRAN: Roasted In Shell Pistachios, C–507–601	1/1/23–12/31/23
REPUBLIC OF KOREA: Hot-Rolled Steel Flat Products, C–580–884	1/1/23–12/31/23
THE PEOPLE'S REPUBLIC OF CHINA: Boltless Steel Shelving Units Prepackaged For Sale, C–570–019	1/1/23–12/31/23
Suspension Agreements	
ARGENTINA: Lemon Juice, A–357–818	10/1/23–9/30/24
RUSSIA: Uranium, A–821–802	10/1/23–9/30/24

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that Commerce conduct an administrative review. For both AD and CVD reviews, the interested party must specify the individual producers or exporters covered by an AD finding or an AD or CVD order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires Commerce to review those particular producers or exporters. If the interested party intends for Commerce to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for Commerce to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[3]

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an AD administrative review.[4] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[5] In administrative reviews of AD orders on merchandise from NME countries where a review of

[3] *See* the Enforcement and Compliance website at *https://www.trade.gov/us-antidumping-and-countervailing-duties.*

[4] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[5] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an AD administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *https://access.trade.gov*.[6] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[7]

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of October 2024. If Commerce does not receive, by the last day of October 2024, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

Establishment of and Updates to the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*'' in the **Federal Register**.[8] On September 27, 2021, Commerce also published the notice entitled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register**.[9] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[10]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** before November 4, 2021, Commerce created an annual inquiry service list segment for each order and suspended investigation. Interested parties who wished to be added to the annual inquiry service list for an order submitted an entry of appearance to the annual inquiry service list segment for the order in ACCESS and, on November 4, 2021, Commerce finalized the initial annual inquiry service lists for each order and suspended investigation. Each annual inquiry service list has been saved as a public service list in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.'' [11]

As mentioned in the *Procedural Guidance,* beginning in January 2022, Commerce will update these annual inquiry service lists on an annual basis when the *Opportunity Notice* for the anniversary month of the order or suspended investigation is published in the **Federal Register**.[12] Accordingly, Commerce will update the annual inquiry service lists for the above-listed AD and CVD proceedings. All interested parties wishing to appear on the updated annual inquiry service list must take one of the two following actions: (1) new interested parties who did not previously submit an entry of appearance must submit a new entry of appearance at this time; (2) interested parties who were included in the preceding annual inquiry service list must submit an amended entry of appearance to be included in the next year's annual inquiry service list. For these interested parties, Commerce will change the entry of appearance status from ''Active'' to ''Needs Amendment'' for the annual inquiry service lists corresponding to the above-listed proceedings. This will allow those interested parties to make any necessary amendments and resubmit their entries of appearance. If no amendments need to be made, the interested party should indicate in the area on the ACCESS form requesting an explanation for the amendment that it is resubmitting its entry of appearance for inclusion in the annual inquiry service list for the following year. As mentioned in the *Final Rule,*[13] once the petitioners and foreign governments have submitted an entry of appearance for the first time, they will automatically be added to the updated annual inquiry service list each year.

Interested parties have 30 days after the date of this notice to submit new or amended entries of appearance. Commerce will then finalize the annual inquiry service lists five business days thereafter. For ease of administration, please note that Commerce requests that law firms with more than one attorney representing interested parties in a proceeding designate a lead attorney to be included on the annual inquiry service list.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and

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

[7] *See Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings; Final Rule,* 88 FR 67069 (September 29, 2023).

[8] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[9] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[10] *Id.*

[11] This segment has been combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

[12] *See Procedural Guidance,* 86 FR at 53206.

[13] *See Final Rule,* 86 FR at 52335.

representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [14] Accordingly, as stated above and pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 20, 2024.

Scot Fullerton,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2024–22493 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–DS–P

[14] *Id.*

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–895]

Low Melt Polyester Staple Fiber From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review; 2022–2023

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that the sole producer/exporter subject to this administrative review made sales of subject merchandise at less than normal value (NV) during the period of review (POR) August 1, 2022, through July 31, 2023. Interested parties are invited to comment on these preliminary results.

DATES: Applicable October 1, 2024.

FOR FURTHER INFORMATION CONTACT: Andrew Hart, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1058, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 16, 2018, Commerce published in the **Federal Register** the antidumping duty order on low melt polyester staple fiber (low melt PSF) from the Republic of Korea (Korea).[1] On October 18, 2023, based on a timely request for review, in accordance with 19 CFR 351.221(c)(1)(i), we initiated an administrative review on low melt PSF from Korea.[2] The review covers one producer/exporter of the subject merchandise, Toray Advanced Materials Korea, Inc. (TAK).

On April 8, 2024, Commerce extended the deadline for the preliminary results of this administrative review until August 30, 2024.[3] On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.[4] The deadline for the preliminary results is now September 6, 2024. For a complete description of the events that followed the initiation of this review, *see* the Preliminary Decision Memorandum.[5]

Scope of the Order

The merchandise subject to the *Order* is synthetic staple fibers, not carded or combed, specifically bi-component polyester fibers having a polyester fiber component that melts at a lower temperature than the other polyester fiber component. For a complete description of the scope of the *Order, see* the Preliminary Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section 772 of the Act. NV is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following estimated weighted-average dumping margin exists for the period August 1, 2022, through July 31, 2023:

Exporter/producer	Weighted-average dumping margin (percent)
Toray Advanced Materials Korea, Inc	2.46

Disclosure and Public Comment

Commerce intends to disclose its calculations and analysis performed to interested parties for these preliminary results within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs or other written comments to Commerce no later than 30 days after the date of publication of this notice.[6] Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[7] Parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a statement

[1] *See Low Melt Polyester Staple Fiber from the Republic of Korea and Taiwan: Antidumping Duty Orders,* 83 FR 40752 (August 16, 2018) (*Order*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 88 FR 71829 (October 18, 2023).

[3] *See* Memorandum, ''Extension of the Deadline for Preliminary Results of Antidumping Duty Administrative Review,'' dated April 8, 2024.

[4] *See* Memorandum, ''Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings,'' dated July 22, 2024.

[5] *See* Memorandum, ''Decision Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Low Melt Polyester Staple Fiber from the Republic of Korea; 2022–2023,'' dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

[6] *See* 19 CFR 351.309(c)(1)(ii); *see also* 19 CFR 351.303 (for general filing requirements).

[7] *See* 19 CFR 351.309(d); *see also Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings, 88 FR 67069, 67077 (September 29, 2023) (APO and Service Final Rule).*

of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[8]

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings, we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this review, we instead request that interested parties provide, at the beginning of their briefs, a public executive summary for each issue raised in their briefs.[9] Further, we request that interested parties limit their public executive summary of each issue to no more than 450 words, no including citations. We intend to use the public executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final results in this administrative review. We request that interested parties include footnotes for relevant citations in the public executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).[10]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Acting Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically via ACCESS. Hearing requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to issues raised in the respective case briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined and will notify the parties through ACCESS.[11] Parties should confirm the date, time, and location of the hearing two days before the scheduled date.

All submissions, including case and rebuttal briefs, as well as hearing requests, should be filed using ACCESS. An electronically-filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the established deadline.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, upon completion of the final results, Commerce shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.[12] Pursuant to 19 CFR 351.212(b)(1), if TAK's weighted-average dumping margin is not zero or *de minimis* (*i.e.,* less than 0.5 percent) in the final results of this review, we will calculate importer-specific *ad valorem* assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales.[13] If the respondent has not reported entered values, we will calculate a per-unit assessment rate for each importer by dividing the total amount of dumping calculated for the examined sales made to that importer by the total quantity associated with those transactions. If TAK's weighted-average dumping margin is zero or *de minimis* within the meaning of 19 CFR 351.106(c)(1), or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate entries without regard to antidumping duties.[14] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[15]

For entries of subject merchandise during the POR produced by TAK for which it did not know that the merchandise was destined for the United States, we intend to instruct CBP to liquidate unreviewed entries at the all-others rate established in the original less-than-fair-value (LTFV) investigation (*i.e.,* 16.27 percent) [16] if there is no rate for the intermediate company(ies) involved in the transaction.[17]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the company listed above will be equal to the weighted-average dumping margin established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recently-completed segment of this proceeding in which the company was reviewed; (3) if the exporter is not a firm covered in this review, a prior review, or the LTFV investigation, but the producer is, then the cash deposit rate will be the cash deposit rate established in the completed segment for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters will continue to be 16.27 percent, the all-others rate established in the LTFV investigation.[18] These deposit requirements, when imposed, shall remain in effect until further notice.

Final Results of Review

Unless the deadline is otherwise extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of issues raised by interested parties in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**.[19]

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

[8] *See* 19 CFR 351.309(c)(2) and (d)(2).

[9] We use the term ''issue'' here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

[10] *See APO and Service Final Rule.*

[11] *See* 19 CFR 351.310(d).

[12] *See* 19 CFR 351.212(b).

[13] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012) (*Final Modification for Reviews*).

[14] *Id.* 77 FR at 8102.

[15] *See* section 751(a)(2)(C) of the Act.

[16] *See Order.*

[17] For a full discussion of this practice, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[18] *See Order.*

[19] *See* section 751(a)(3)(A) of the Act; *see also* 19 CFR 351.213(h).

Notification to Interested Parties

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: September 6, 2024.

Abdelali Elouaradia,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

[FR Doc. 2024–22521 Filed 9–30–24; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No. PTO–P–2024–0047]

Grant of Interim Extension of the Term of U.S. Patent No. 7,199,162—GRAFAPEX™ (Treosulfan)

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice of interim patent term extension.

SUMMARY: The United States Patent and Trademark Office has issued a certificate for a one-year interim extension of the term of U.S. Patent No. 7,199,162.

FOR FURTHER INFORMATION CONTACT: Kathleen Kahler Fonda, Senior Legal Advisor (telephone (571) 272–7754; email *kathleen.fonda@uspto.gov*). Alternatively, mail may be addressed to Commissioner for Patents, Mail Stop Hatch-Waxman PTE, P.O. Box 1450, Alexandria, VA 22313–1450, and marked to the attention of Ms. Fonda.

SUPPLEMENTARY INFORMATION: Section 156 of title 35, United States Code, generally provides that the term of a patent may be extended for a period of up to five years if the patent claims a product, or a method of making or using a product, that has been subject to certain defined regulatory review, and that the patent may be extended for interim periods of up to one year if the regulatory review is anticipated to extend beyond the expiration date of the patent.

On August 20, 2024, Medac Gesellschaft für Klinische Spezialpräparate mbH, the patent owner of record, timely filed an application under 35 U.S.C. 156(d)(5) for a fourth interim extension of the term of U.S. Patent No. 7,199,162. The patent claims a method of using the human drug product GRAFAPEX™ (treosulfan). The application for patent term extension indicates that New Drug Application 214759 was submitted to the Food and Drug Administration on August 11, 2020, and its review in order for the patent owner to obtain permission to market and use the product commercially is ongoing.

Review of the patent term extension application indicates that, except for permission to market or use the product commercially, the subject patent would be eligible for an extension of the patent term under 35 U.S.C. 156, and that the patent should be extended for one year as required by 35 U.S.C. 156(d)(5)(B). Because the regulatory review period will continue beyond the thrice-extended expiration date of the patent, October 12, 2024, interim extension of the patent term under 35 U.S.C. 156(d)(5) is appropriate.

A fourth interim extension under 35 U.S.C. 156(d)(5) of the term of U.S. Patent No. 7,199,162 is granted for a period of one year from the thrice-extended expiration date of the patent.

Charles Kim,

Deputy Commissioner for Patents, United States Patent and Trademark Office.

[FR Doc. 2024–22480 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

[Docket No.: PTO–P–2024–0051]

Extension and Termination of the After Final Consideration Pilot Program 2.0

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

ACTION: Notice.

SUMMARY: On April 3, 2024, the United States Patent and Trademark Office (USPTO), when setting and adjusting patent fees for fiscal year 2025, proposed a new fee to recuperate costs affiliated with the submission of a request for consideration under the After Final Consideration Pilot Program 2.0 (AFCP 2.0). Commenters on the proposal expressed concerns about the AFCP 2.0 and the proposed fee. In view of these comments, the USPTO has decided to allow AFCP 2.0 to expire. While the program currently runs through September 30, 2024, to accommodate those who may be in the process of preparing to use the program, the USPTO will provide a short extension of the expiration of the program. The USPTO is setting December 14, 2024, as the last day to submit a request for participation under the program.

DATES: The USPTO will not accept requests for consideration under the AFCP 2.0 filed after December 14, 2024.

FOR FURTHER INFORMATION CONTACT: Kery Fries, Senior Legal Advisor, at 571–272–7757; or Raul Tamayo, Senior Legal Advisor, at 571–272–7728, both with the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patents.

SUPPLEMENTARY INFORMATION: On May 19, 2013, the USPTO modified the After Final Consideration Pilot Program (AFCP) to create the AFCP 2.0. The three main differences between the AFCP and the AFCP 2.0 are: (1) an applicant must request to participate in AFCP 2.0; (2) a response to an after final rejection under AFCP 2.0 must include a non-broadening amendment to at least one independent claim; and (3) the examiner will schedule an interview with the applicant if the after-final response did not result in a determination by the examiner that all pending claims in the application were in condition for allowance.

The goal of the AFCP 2.0 was to improve pendency by reducing the number of Requests for Continued Examination (RCE) and encourage increased collaboration between the applicant and the examiner to effectively advance prosecution of the application. The AFCP 2.0 does not require any additional fees for an applicant to request consideration of an amendment after final rejection, but any necessary existing fee, *e.g.,* the fee for an extension of time, is required. Initially, the pilot program was scheduled to run for approximately one year and was set to end on September 30, 2014. The USPTO notified the public that the AFCP 2.0 may be extended (with or without modifications) depending on feedback from participants and based on a determination of the effectiveness of the pilot program. The USPTO repeatedly extended the pilot program, with the most recent extension set to end on September 30, 2024.

Since 2016, applicants have filed more than 60,000 AFCP 2.0 requests annually. Due to the high usage of the AFCP 2.0, costs to administer the program are significant. A large part of the AFCP 2.0's high usage is due to economic inefficiencies where participants receive program benefits without paying for the cost of the

service directly. For fiscal year 2022, the USPTO estimates it expended more than $15 million in incurred costs associated with examiners considering the merits of AFCP 2.0 submissions. This cost is in addition to the time spent by examiners to initially evaluate the AFCP 2.0 request for program compliance, interview time, and any additional consultation with supervisors and primary examiners.

On April 3, 2024, the USPTO proposed a new fee for participation in the AFCP 2.0 when setting and adjusting patent fees for fiscal year 2025 (See Setting and Adjusting Patent Fees During Fiscal Year 2025, 89 FR 23226). The agency proposed to charge fees for filing a request for consideration under the AFCP 2.0 as follows: $500 for requests filed by undiscounted entities; $200 for requests filed by entities entitled to the small entity discount; and $100 for requests filed by entities entitled to the micro entity discount. The proposed fee would have offset the USPTO's costs of administering the AFCP 2.0. The USPTO stated that if there is sufficient public support for the proposed fees, the USPTO would favor continuing the pilot program. However, the USPTO explained that if it was unable to recover the costs of the AFCP 2.0 from participants, the USPTO would consider terminating the program.

In response to the proposed new fee for participation in the AFCP 2.0, commenters expressed concerns about the program and the fee. Because the public is not widely receptive to paying a fee to participate in the AFCP 2.0, the USPTO has decided to terminate the program after a brief extension to December 14, 2024. Accordingly, the USPTO will not consider any request for consideration under the AFCP 2.0 filed after December 14, 2024.

The USPTO is providing the extension of the AFCP 2.0 until December 14, 2024, to provide program users with reasonable time to adjust to the program's upcoming termination should they be in the process of preparing a request for consideration under AFCP 2.0. Applicants still have various options available for after final consideration. For example, under routine examination practice, after the close of prosecution, proposed amendments that will place the application either (1) in condition for allowance or (2) in better form for appeal, may be entered. See 37 CFR 1.116(b). Additionally, an examiner may have an interview with the applicant to advance prosecution. See sections 713.09 and 714.12 of the Manual of Patent Examining Procedure (9th ed., Rev. 07.2022, February 2023) (MPEP), which may be viewed on, or downloaded from the USPTO website at *mpep.uspto.gov* or *www.uspto.gov/MPEP.* Moreover, applicants still have the option to file a pre-appeal brief request for review at the time of the filing of a notice of appeal, which provides applicants with the opportunity to have a panel decide if an issue for appeal is, in fact, present in the record. See section 1204.02 of the MPEP.

Katherine K. Vidal,

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

[FR Doc. 2024–22481 Filed 9–30–24; 8:45 am]

BILLING CODE 3510–16–P

CONSUMER FINANCIAL PROTECTION BUREAU

[Docket No. CFPB–2024–0049]

Agency Information Collection Activities: Comment Request

AGENCY: Consumer Financial Protection Bureau.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (CFPB) requests the revision of the Office of Management and Budget's (OMB's) approval for an existing information collection titled ''Making Ends Meet Survey'' approved under OMB Number 3170–0080.

DATES: Written comments are encouraged and must be received on or before October 31, 2024 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. In general, all comments received will become public records, including any personal information provided. Sensitive personal information, such as account numbers or Social Security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Anthony May, Paperwork Reduction Act Officer, at (202) 435–7278, or email: *CFPB_PRA@cfpb.gov.* If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.* Please do not submit comments to these email boxes.

SUPPLEMENTARY INFORMATION:

Title of Collection: Making Ends Meet Survey.

OMB Control Number: 3170–0080.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,500.

Estimated Total Annual Burden Hours: 2,060.

Abstract: The Dodd-Frank Wall Street Reform and Consumer Protection Act charges the CFPB with researching, analyzing, and reporting on topics relating to the Bureau's mission including consumer behavior, consumer awareness, and developments in markets for consumer financial products and services. To improve its understanding of how consumers engage with financial markets, the CFPB has successfully used surveys under its ''Making Ends Meet'' program. The ''Making Ends Meet'' program has also used the CFPB's Consumer Credit Information Panel (CCIP) as a frame to survey people about their experiences in consumer credit markets. The CFPB seeks approval for two yearly surveys under the ''Making Ends Meet'' program. These surveys solicit information on the consumer's experience related to household financial shocks, particularly shocks related to the economic effects of the COVID–19 pandemic, how households respond to those shocks, and the role of savings to help provide a financial buffer.

The first survey will be a follow-up to respondents from the CFPB's 2024 ''Making Ends Meet'' survey to better understand household financial experiences dealing with medical debt as well as consumers' interactions with various financial products. The second survey will go to a new sample of consumers from the CCIP and will address several topics of interest to the CFPB, possibly including the impact of natural disasters and other environmental events, credit shopping behavior, additional follow-up regarding debt collection, and the assessment of various fees throughout the financial services ecosystem.

Request for Comments: The CFPB published a 60-day **Federal Register** notice on March 26, 2024 (89 FR 20950) under Docket Number: CFPB–2024–0013. The CFPB is publishing this notice and soliciting comments on: (a) Whether the collection of information is

necessary for the proper performance of the functions of the CFPB, including whether the information will have practical utility; (b) The accuracy of the CFPB's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be reviewed by OMB as part of its review of this request. All comments will become a matter of public record.

Anthony May,

Paperwork Reduction Act Officer, Consumer Financial Protection Bureau.

[FR Doc. 2024–22491 Filed 9–30–24; 8:45 am]

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2024–0030]

Notice of Availability and Request for Comment: Public Playground Handbook Update

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability and request for comment.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC) is announcing the availability of draft updates to its ''Public Playground Safety Handbook.''

DATES: Comments must be received by December 2, 2024.

ADDRESSES: You can submit comments, identified by Docket No. CPSC–2024–0030, 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. 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. CPSC typically does not accept comments submitted by email, except as described below.

Mail/Hand Delivery/Courier/Confidential Written Submissions: CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal. You may, however, submit comments by mail, hand delivery, or courier to: Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (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 to 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–2024–0030, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Daniel Taxier, Children's Program Manager, Division of Mechanical and Combustion Engineering, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850–3213; email: *dtaxier@cpsc.gov;* telephone: (301) 987–2211.

SUPPLEMENTARY INFORMATION: The U.S. Consumer Product Safety Commission published the first Handbook for Public Playground Safety (the Handbook) in 1981. This original document was a two-volume set containing technical guidance intended to reduce deaths and injuries to children associated with playground equipment. In 1991, the Handbook was revised to a single volume, which contained recommendations based on a COMSIS Corporation report to the CPSC.[1] Also in 1991, the first ASTM International (ASTM) standard for playground safety, F1292: *Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment,* was published. In 1993, ASTM F1487: *Standard Consumer Safety Performance Specification for Playground Equipment for Public Use* was published. CPSC published minor revisions to the Handbook in 1994. In 1997, the Handbook was updated based on ASTM F1487, a playground safety roundtable meeting held in October of 1996, and comments received in response to a May 1997 CPSC request.

Due to the lack of a Commission quorum at the time, 2008 revisions to the Handbook were released as a draft staff document. Later in 2008, members of ASTM's voluntary standards committee on playground equipment and the International Play Equipment Manufacturers Association (IPEMA) identified areas where the voluntary standards and the Handbook did not align. In 2010, CPSC published a revised the Handbook that resolved many of these issues.

Since 2010, ASTM has published new and revised public playground standards,[2] and new materials and equipment have been installed in playgrounds. Additionally, members of ASTM, the National Program for Playground Safety (NPPS), IPEMA, and members of the general public have requested clarifications and recommended an update to the Handbook. Based on the current editions of the relevant ASTM standards, feedback from the public, and comments from ASTM and NPPS, CPSC is publishing a revised draft Handbook with a focus on improvements to safety.

The staff memorandum accompanying the draft Handbook, available at *https://cpsc.gov/s3fs-public/BallotVote-Public-Playground-Handbook-Update-2.pdf?,* summarizes major revisions included in the draft. These changes include updated signage and labeling guidance; updated guidance on common hazards for supervisor awareness; references to new impact attenuation testing for suspended elements in ASTM F1487; an updated warning label on potential

[1] The 1990 COMSIS report, *Development of Human Factors Criteria for Playground Equipment Safety,* is available in six parts on the CPSC website. Part 1 is available at: *https://www.cpsc.gov/content/Development-of-Human-Factors-Criteria-for-Playground-Equipment-Safety-Part-1.* Part 2 is available at: *https://www.cpsc.gov/content/Development-of-Human-Factors-Criteria-for-Playground-Equipment-Safety-Part-2.* Part 3 is available at: *https://www.cpsc.gov/content/Development-of-Human-Factors-Criteria-for-Playground-Equipment-Safety-Part-3.* Part 4 is available at: *https://www.cpsc.gov/content/development-human-factors-criteria-playground-equipment-safety-part-4.* Part 5 is available at: *https://www.cpsc.gov/content/Development-of-Human-Factors-Criteria-for-Playground-Equipment-Safety-Part-5.* Part 6 is available at: *https://www.cpsc.gov/content/development-human-factors-criteria-playground-equipment-safety-part-6.*

[2] *See* section 1.4.1 of the draft Handbook for a list of relevant standards.

strangulation hazards; expanded guidance on merry-go-rounds and other spinning equipment, consistent with requirements in ASTM F1487; and several other minor revisions and corrections.

The draft Handbook is intended to provide guidance to childcare personnel, school officials, parks and recreation personnel, equipment purchasers and installers, playground designers, and any other members of the general public (*e.g.,* parents and school groups) concerned with playground safety and interested in evaluating their respective playgrounds. The draft Handbook also includes references to voluntary standards that contain technical requirements that are primarily intended for use by equipment designers and manufacturers, architects, and any others requiring more technical information. The draft Handbook is a guidance document; it is not a rule and does not establish legally enforceable responsibilities.

The draft Handbook is available on the Commission's website at: *https://cpsc.gov/s3fs-public/BallotVote-Public-Playground-Handbook-Update-2.pdf?* and from the Commission's Office of the Secretary at the location listed in the **ADDRESSES** section of this notice.

The Commission invites comment on the document, ''Public Playground Safety Handbook.'' Comments should be submitted by December 2, 2024. Information on how to submit comments can be found in the **ADDRESSES** section of this notice.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2024–22433 Filed 9–30–24; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2024–IES–0116]

Request for Information for Recommendations on Improving Data User Experiences Through a National Center for Education Statistics' 2025 Data Users Conference

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Request for information.

SUMMARY: The National Center for Education Statistics (NCES), the statistical center within the U.S. Department of Education's Institute of Education Sciences (IES), is soliciting public input on the framework for an inaugural Data Users Conference. The event will bring together a diverse set of NCES data users, including researchers, practitioners, parents/guardians, students, academic and commercial leaders in their fields, and policymakers. Their input will be used to refine NCES's approach to meeting the needs of its data users.

DATES: We must receive your comments by October 31, 2024.

ADDRESSES: Recommendations must be submitted via the Federal eRulemaking Portal at *regulations.gov.* However, if you require an accommodation or cannot otherwise submit your recommendations via *regulations.gov,* please contact the program contact person listed under **FOR FURTHER INFORMATION CONTACT**. The Department will not accept recommendations by email or by fax. To ensure that the Department does not receive duplicate copies, please submit your recommendations only once. Additionally, please include the Docket ID at the top of your comments.

Federal eRulemaking Portal: Go to *www.regulations.gov* to submit your recommendations electronically. Information on using *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''FAQ'' tab.

Privacy Note: The Department's policy for comments received from members of the public is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their recommendations only information that they wish to make publicly available. We encourage, but do not require, that each respondent include their name, title, institution or affiliation, and the name, title, mailing and email addresses, and telephone number of a contact person for the institution or affiliation, if any.

FOR FURTHER INFORMATION CONTACT: Eunice Greer, U.S. Department of Education, 400 Maryland Avenue SW, Room PCP–4101, Washington, DC 20202. Telephone: (202) 320–7356. Email: *Eunice.Greer@ed.gov.*

As stated above, recommendations must be submitted via the Federal eRulemaking Portal at *regulations.gov.* However, if you require an accommodation or cannot otherwise submit your recommendations via *regulations.gov,* please contact the program contact person listed above.

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

SUPPLEMENTARY INFORMATION:

Background: NCES has a legal mandate to collect, collate, analyze, and report complete statistics on the condition of American education; conduct and publish reports; and review and report on education activities internationally. 20 U.S.C. 9541 *et seq.* Additionally, the Center is authorized to establish one or more national cooperative education statistics systems to produce and maintain, with the cooperation of the States, comparable and uniform information and data on early childhood education, elementary and secondary education, postsecondary education, adult education, and libraries that are useful for policymaking at the Federal, State, and local levels. 20 U.S.C. 9547. Additional information about NCES is available here: *https://nces.ed.gov/.*

NCES is convening data users in response to recommendations from the National Academies of Science, Engineering, and Medicine (NASEM) detailed in their 2022 report, *A Vision and Roadmap for Education Statistics.* This report was prepared at the request of NCES. NASEM recommends that NCES:

—Adapt to the changing world of education by increasing diversity and awareness of equity issues;
—Expand data-acquisition strategies to gain new insights;
—Prioritize topics, data content, and statistical information to increase relevance; and
—Expand engagement and dissemination for greater mission impact.

The Data Users Conference will draw heavily on NCES data and invite presentations from external experts working with broader sources of data. Facilitated discussions will explore opportunities for expanding NCES data collection, application, and reporting. The Conference's centerpiece will be a three-day series of seminars that will focus on three themes:

(1) Identifying and closing learning and achievement gaps;

(2) Identifying and explaining ways that Pre-K, K–12, and postsecondary landscapes are changing; and

(3) Expanding awareness and use of socio-spatial data, data for rural areas, and blended data to improve understanding of underrepresented groups.

External experts will join NCES researchers in a series of presentations to address each theme in new and powerful ways. Within each theme,

participants will work together to articulate expanded strategies for gathering, analyzing, visualizing, and reporting data. In addition to providing a venue for data users to share novel uses of NCES data, NCES will also use the conference to share product and process updates. These may include updates to NCES data tools, reporting programs, and training opportunities.

Please note that this RFI is only a request for recommendations and not a request for proposals (RFP), or a promise to issue an RFP, or a notice inviting applications (NIA). This RFI does not commit the Department to take any future administrative, contractual, regulatory, or other action. A Request for Proposals is forthcoming. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI. Any supporting documents and information submitted in response to this RFI will not be returned.

We will review each recommendation, and the information submitted in response to this RFI will be publicly available on the Federal eRulemaking Portal at *www.regulations.gov.* Please note that IES will not directly respond to comments.

Solicitation of Recommendations: We encourage the public, particularly those who are aware of key research questions and policy activity in one or more of the three theme areas, to address the following questions in their recommendations:

(1) What are existing or emerging issues for data users that you consider critical for each of the three conference themes? Please provide citations and links to any noteworthy research publications and products that support these existing or emerging issues.

(2) How can conference organizers best identify and convene a broad and diverse array of attendees? Recommended methods should promote inclusive approaches. Our goal is to convene organizations and/or individuals who are engaged in work related to one or more of the conference themes, including early career researchers, data users from smaller institutions, and non-traditional data users.

(3) What NCES-affiliated products and processes are of greatest interest to data users? Are there any specific updates or modifications that would be helpful to data users?

Accessible Format: By request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or another accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Matthew Soldner,

Acting Director, Institute of Education Sciences.

[FR Doc. 2024–22490 Filed 9–30–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2024–SCC–0122]

Agency Information Collection Activities; Comment Request; Monitoring of Section 8546 Prohibition on Aiding and Abetting Sexual Abuse State Educational Agency Self-Assessment

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 new information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before December 2, 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–0122. 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 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: Monitoring of Section 8546 Prohibition on Aiding and Abetting Sexual Abuse State Educational Agency Self-Assessment.

OMB Control Number: 1810–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 53.

Total Estimated Number of Annual Burden Hours: 212.

Abstract: Section 8546 of the Elementary and Secondary Education Act of 1965, as amended, (ESEA) requires that A State, State educational agency, or local educational agency in the case of a local educational agency that receives Federal funds under this Act shall have laws, regulations, or policies that prohibit any individual who is a school employee, contractor, or agent, or any State educational agency or local educational agency, from assisting a school employee, contractor, or agent in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or agency knows, or has probable cause to believe, that such school employee, contractor, or agent engaged in sexual misconduct regarding a minor or student in violation of the law. In order to understand state and local compliance with section 8546 and provide technical assistance to support state and local efforts to keep students safe from sexual predators in K12 school settings, staff in the Office of Elementary and Secondary Education (OESE) at the U.S. Department of Education (the Department) will implement this monitoring protocol.

Congress included section 8546 as part of the ESEA reauthorized by the Every Student Succeeds Act and directed the Department to provide publicly available information on the status of each states compliance with this provision in the fiscal year 2024 Federal budget. Specifically, Congress directed the Department to brief the Committees on key actions completed and plans to ensure state and local compliance with the requirements of section 8546 of the ESEA not later than 90 days after enactment of this fiscal year 2024 budget. Such briefing shall include a discussion of actions taken on recommendations from the Department-funded ''Study of State Policies to Prohibit Aiding and Abetting Sexual Misconduct in Schools, and other technical assistance and support, enforcement and accountability actions, implementation challenges, and the metrics the agency is using to measure improved State and local compliance with this section of the law. Not later than 240 days after enactment, the Department is directed to publicly post a status report on State and local compliance and its plans to ensure State and local compliance with such section.

This will be a new collection and rulemaking will not be involved.

Dated: September 26, 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. 2024–22464 Filed 9–30–24; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR24–11–000]

DK Trading & Supply, LLC v. Colonial Pipeline Company; Notice of Complaint

Take notice that on September 20, 2024, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, 18 CFR 385.206 (2024), DK Trading & Supply, LLC (''DK Trading'') hereby submits this complaint challenging the justness and reasonableness of the rates that Colonial Pipeline Company (''Colonial'') charges for transportation services pursuant to FERC No. 99.88 and all predecessor and successor tariffs, supplements, and reissuances thereof (''Colonial Tariffs'').

The Complainant certifies that copies of the complaint were served on the contacts listed for Respondents in the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Comment Date: 5 p.m. eastern time on October 21, 2024.

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22422 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL24–137–000]

Mid-Atlantic Offshore Development, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On September 20, 2024, the Commission issued an order in Docket No. EL24–137–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e, instituting an investigation to determine whether Mid-Atlantic Offshore Development, LLC's proposed

Formula Rate Template and Protocols are unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. *Mid-Atlantic Offshore Development, LLC,* 188 FERC ¶ 61,198 (2024).

The refund effective date in Docket No. EL24–137–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL24–137–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2023), within 21 days of the date of issuance of the order.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. From FERC's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202)502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov*.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the ''eFile'' link at *http://www.ferc.gov*. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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Dated: September 20, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22488 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG24–296–000.
Applicants: Fort Duncan BESS LLC.
Description: Fort Duncan BESS LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/25/24.
Accession Number: 20240925–5057.
Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: EG24–297–000.
Applicants: Ashwood Solar I, LLC.
Description: Ashwood Solar I, LLC submits Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/25/24.
Accession Number: 20240925–5060.
Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: EG24–298–000.
Applicants: Richland Township Solar, LLC.
Description: Richland Township Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/25/24.
Accession Number: 20240925–5094.
Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: EG24–299–000.
Applicants: BCD 2024 Fund 4 Lessee, LLC.
Description: BCD 2024 Fund 4 Lessee, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/25/24.
Accession Number: 20240925–5101.
Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: EG24–300–000.
Applicants: West River Solar, LLC.
Description: West River Solar, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 9/25/24.
Accession Number: 20240925–5105.
Comment Date: 5 p.m. ET 10/16/24.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–2654–000; ER24–2655–000.
Applicants: Morgan Stanley Energy Structuring, L.L.C., Morgan Stanley Capital Group Inc.
Description: Supplement to 07/31/2024 Morgan Stanley Capital Group Inc. et al. tariff filing.
Filed Date: 9/24/24.
Accession Number: 20240924–5172.
Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3103–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 7046; Queue No. AE1–149 to be effective 11/25/2024.
Filed Date: 9/25/24.
Accession Number: 20240925–5029.
Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–3104–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: EG Surya I (Surya Solar 1) LGIA Filing to be effective 9/13/2024.
Filed Date: 9/25/24.
Accession Number: 20240925–5071.
Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–3105–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company
Description: § 205(d) Rate Filing: Alabama Power Company submits tariff filing per 35.13(a)(2)(iii: EG Surya II (Surya Solar 2) LGIA Filing to be effective 9/13/2024.
Filed Date: 9/25/24.
Accession Number: 20240925–5072.
Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–3106–000.
Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.
Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2024–09–25_SA 4356 Ameren IL-Spring Creek Solar E&P (J1677) to be effective 9/26/2024.
Filed Date: 9/25/24.
Accession Number: 20240925–5081.
Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–3107–000.
Applicants: Evergy Kansas Central, Inc.

Description: § 205(d) Rate Filing: EKC GFR and McPherson Depreciation Rate Filing to be effective 12/1/2024.

Filed Date: 9/25/24.

Accession Number: 20240925–5093.

Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–3108–000.

Applicants: Evergy Kansas Central, Inc.

Description: § 205(d) Rate Filing: EKC TFR Depreciation Rate Filing to be effective 12/1/2024.

Filed Date: 9/25/24.

Accession Number: 20240925–5108.

Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–3109–000.

Applicants: UNS Electric, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule No. 10 to be effective 9/25/2024.

Filed Date: 9/25/24.

Accession Number: 20240925–5117.

Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–3110–000.

Applicants: National Grid Generation LLC.

Description: § 205(d) Rate Filing: Annual Reset of Pension and OPEB Expenses to be effective 1/1/2024.

Filed Date: 9/25/24.

Accession Number: 20240925–5121.

Comment Date: 5 p.m. ET 10/16/24.

Docket Numbers: ER24–3111–000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: DEP–NCEMC RS No. 451 to be effective 1/1/2025.

Filed Date: 9/25/24.

Accession Number: 20240925–5122.

Comment Date: 5 p.m. ET 10/16/24.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH24–15–000.

Applicants: Atlantica Sustainable Infrastructure plc.

Description: Atlantica Sustainable Infrastructure plc submits FERC 65–B Notice of Change in Fact to Waiver Notification of.

Filed Date: 9/24/24.

Accession Number: 20240924–5170.

Comment Date: 5 p.m. ET 10/15/24.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: September 25, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22483 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4202–025]

KEI Power Management, LLC; Notice of Intent To Prepare an Environmental Assessment

On September 28, 2021, KEI Power Management, LLC filed a relicense application for the 1-megawatt Lowell Tannery Hydroelectric Project No. 4202 (project). The project is located on the Passadumkeag River in Penobscot County, Maine.

In accordance with the Commission's regulations, on May 30, 2024, Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the project would constitute a major Federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Assessment (EA) on the application to relicense the project.[1]

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

The application will be processed according to the following schedule. The EA will be issued for a 30-day comment period. Revisions to the schedule may be made as appropriate.

Milestone: Commission issues EA.

Target Date: August 29, 2025.

Any questions regarding this notice may be directed to Robert Haltner at (202) 502–8612 or *robert.haltner@ferc.gov.*

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22425 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 96–048]

Pacific Gas and Electric Company; Notice of Reasonable Period of Time for Water Quality Certification Application

On September 17, 2024, the California State Water Resources Control Board (California SWRCB) submitted to the Federal Energy Regulatory Commission (Commission) notice that it received a request for a Clean Water Act section 401(a)(1) water quality certification as defined in 40 CFR 121.5, from Pacific Gas and Electric Company, in conjunction with the above captioned project, on August 22, 2024. Pursuant to section 4.34(b)(5) of the Commission's regulations,[1] we hereby notify California SWRCB of the following:

Date of Receipt of the Certification Request: August 22, 2024.

[1] In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1727186599. 40 CFR 1501.5(c)(4) (2024).

[1] 18 CFR 4.34(b)(5).

Reasonable Period of Time to Act on the Certification Request: One year, August 22, 2025.

If California SWRCB fails or refuses to act on the water quality certification request on or before the above date, then the certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22423 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP24–1072–000.

Applicants: Alliance Pipeline L.P.

Description: § 4(d) Rate Filing: APL 2024 Fuel Filing to be effective 11/01/2024.

Filed Date: 9/25/24.

Accession Number: 20240925–5038.

Comment Date: 5 p.m. ET 10/7/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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Dated: September 25, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22484 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2071–090]

PacifiCorp; Notice of Intent To Prepare an Environmental Assessment

On May 31, 2023, PacifiCorp (licensee) filed an application for a non-capacity amendment for the Yale Hydroelectric Project No. 2071. The project is located on the Lewis River in Clark and Cowlitz counties, WA.

The licensee proposes to install a rock filter/drain berm on the downstream side of the Yale saddle dam and add a downstream toe drain and drainage swale. The licensee's proposal includes adding material to the downstream side of the dam, extending the toe approximately 50 feet into the parking lot for Saddle Dam Park that it would subsequently modify to maintain the existing parking capacity. Additionally, the applicant would add rock armament to the upstream face of the dam, requiring a 1 to 2-month-long, 15-foot reservoir drawdown in the winter. Construction is expected to take place over approximately 18 months.

On May 17, 2024, the Commission issued a public notice for the proposed amendment. On May 17, 2024, a member of the public filed comments and on June 17, 2024, the Washington Department of Ecology (Washington DOE) filed a notice of intervention. On June 17, 2024, the U.S. Environmental Protection Agency filed comments.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the project.[1] The planned schedule for the completion of the EA is May 28, 2025. Revisions to the schedule may be made as appropriate. The EA will be issued and made available for review by all interested parties during a 30-day public comment period. All comments filed on the EA will be reviewed by staff and considered in the Commission's final decision on the proceeding.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others to access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Any questions regarding this notice may be directed to Steven Sachs at 202–502–8666 or *Steven.Sachs@ferc.gov.*

Dated: September 25, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22485 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

[1] In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1727194731. 40 CFR 1501.5(c)(4) (2024).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: PR24–98–000.

Applicants: Gulf Coast Express Pipeline LLC.

Description: Certification Pursuant to 18 CFR 284.123(g)(9)(ii) to be effective N/A.

Filed Date: 9/24/24.

Accession Number: 20240924–5037.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: RP24–1070–000.

Applicants: Iroquois Gas Transmission System, L.P.

Description: 4(d) Rate Filing: 9.24.24 Negotiated Rates—Glencore Ltd. R–8180–02 to be effective 10/1/2024.

Filed Date: 9/24/24.

Accession Number: 20240924–5018.

Comment Date: 5 p.m. ET 10/7/24.

Docket Numbers: RP24–1071–000.

Applicants: Algonquin Gas Transmission, LLC.

Description: 4(d) Rate Filing: Negotiated Rates—Yankee Gas to Emera eff 9–24–24 to be effective 9/24/2024.

Filed Date: 9/24/24.

Accession Number: 20240924–5027.

Comment Date: 5 p.m. ET 10/7/24.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: PR24–89–001.

Applicants: Northern States Power Company, a Minnesota corporation.

Description: 284.123 Rate Filing: 2024–09–23 Amended Stmt of Rights & Stmt of Operating Conditions to be effective 8/1/2024.

Filed Date: 9/23/24.

Accession Number: 20240923–5140.

Comment Date: 5 p.m. ET 10/7/24.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

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For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22420 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 7153–018]

Consolidated Hydro New York, LLC; Notice of Intent To Prepare an Environmental Assessment

On April 29, 2022, Consolidated Hydro New York, LLC filed a relicense application for the 1.656-megawatt Victory Mills Hydroelectric Project (Victory Mills Project or project; FERC No. 7153). The project is located on Fish Creek in Saratoga County in the Village of Victory, New York.

In accordance with the Commission's regulations, on June 28, 2024, Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed on the REA Notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Assessment (EA) on the application to relicense the project.[1]

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's final licensing decision.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

The application will be processed according to the following schedule. The EA will be issued for a 30-day comment period. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Commission issues EA	September 24, 2025.

[1] In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1727252162. 40 CFR 1501.5(c)(4) (2024).

Any questions regarding this notice may be directed to Silvia Pineda-Munoz at (202) 502–8388 or *Silvia.Pineda-Munoz@ferc.gov.*

Dated: September 25, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22486 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6959–004]

Pan Pacific Hydro, Inc.; Notice of Proposed Termination of Exemption by Implied Surrender and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric proceeding has been initiated by the Commission and is available for public inspection:

a. *Type of Proceeding:* Proposed Termination of Exemption by Implied Surrender.

b. *Project No:* 6959–004.

c. *Date Initiated:* September 24, 2024.

d. *Applicant:* Pan Pacific Hydro, Inc.

e. *Name of Projects:* Weber Flat Hydroelectric Project.

f. *Location:* This project is located on the West Fork of Trinity Alps Creek near Weaverville, in Trinity County, California. The project does not occupy Federal lands.

g. *Filed Pursuant to:* 18 CFR 6.4.

h. *Applicant Contact:* Brian Ring, Pan Pacific Hydro, PO Box 12219, Zephyr Cove, NV, 89448, (775) 588–7300.

i. *FERC Contact:* Rebecca Martin, (202) 502–6012, *Rebecca.martin@ferc.gov.*

j. *Resource Agency Comments:* Federal, State, local and Tribal agencies are invited to file comments on the described proceeding. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments.

k. *Deadline for filing comments, motions to intervene, and protests:* November 8, 2024.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please

contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–6959–004. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project Facilities:* The project works include a 5-foot-high, concrete diversion structure; a 1,900-foot-long, 24-inch diameter above-ground penstock connected to a 1,000 foot, 18-inch-diameter buried penstock; a powerhouse containing one generating units with a total installed capacity of 750 kilowatts, and appurtenant facilities. The project has historically operated as run-of-river but has not operated since 2008 when it lost its power purchase agreement.

m. *Description of Proceeding:* The licensee has not complied with Standard Article 16 of the license which was issued on May 12, 1983 (23 FERC 62,205). Article 16 states that if the licensee abandons or discontinues good faith operation of the project or refuses or neglects to comply with the terms of the license and the lawful orders of the Commission, the Commission will deem it to be the intent of the licensee to surrender the license.

Commission staff issued a letter, on September 26, 2019, requesting a plan and schedule to resume project operation or surrender of the license. On February 26, 2019, we granted an extension of time until August 2, 2019. On October 15, 2020, a second extension of time was requested, which was granted on October 20, 2020, and the filing date was extended to July 15, 2021. On March 15, 2023, Commission staff issued another letter requesting a plan and schedule to restore the project to operation or an application to surrender the exemption by April 14, 2023. On April 13, 2023, an additional extension of time was requested to allow for sale of the project. Commission staff issued the extension of time on May 4, 2023, granting until August 2, 2023, to a transfer agreement. To date, no additional filings have been made. On August 13, 2024, Commission staff issued a letter notifying the exemptee that it would be initiating implied surrender proceedings.

n. Location of the license for the project may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number (P–6959) excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

o. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

p. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

r. The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202)502–6595 or *OPP@ferc.gov.*

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22427 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–528–001]

Midwestern Gas Transmission Company; Notice of Request for Extension of Time

Take notice that on September 17, 2024, Midwestern Gas Transmission Company (Midwestern) requested that the Commission grant an extension of time, until February 14, 2025, to complete construction and place into service the MGT Southbound Project (Project) located in Edgar and Vermillion Counties, Illinois, and Ohio County, Kentucky. On August 18, 2023, the Commission issued a Notice of Request Under Blanket Authorization, which established a 60-day comment period, ending on October 17, 2023, to file protests. No protests were filed during the comment period, and accordingly the project self-implemented on October 18, 2023, and by Rule should have been completed within one year.

Midwestern states it is waiting on the delivery of required materials, which has been twice postponed by the manufacturer and currently is not scheduled to arrive until September 30, 2024. Midwestern avers this delivery delay does not afford Midwestern sufficient time to complete construction of the project and place it into service. Based on the current scheduled delivery date, Midwestern anticipates being able to place the project in service by

October 25, 2024. However, to provide a reasonable cushion in the event of continued delays, Midwestern is requesting a 4-month extension of time.

This notice establishes a 15-calendar day intervention and comment period deadline. Any person wishing to comment on Midwestern's request for an extension of time may do so. No reply comments or answers will be considered. If you wish to obtain legal status by becoming a party to the proceedings for this request, you should, on or before the comment date stated below, file a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (NGA) (18 CFR 157.10).

As a matter of practice, the Commission itself generally acts on requests for extensions of time to complete construction for NGA facilities when such requests are contested before order issuance. For those extension requests that are contested,[1] the Commission will aim to issue an order acting on the request within 45 days.[2] The Commission will address all arguments relating to whether the applicant has demonstrated there is good cause to grant the extension.[3] The Commission will not consider arguments that re-litigate the issuance of the certificate order, including whether the Commission properly found the project to be in the public convenience and necessity and whether the Commission's environmental analysis for the certificate complied with the National Environmental Policy Act (NEPA).[4] At the time a pipeline requests an extension of time, orders on certificates of public convenience and necessity are final and the Commission will not re-litigate their issuance.[5] The Director of the Office of Energy Projects, or his or her designee, will act on all of those extension requests that are uncontested.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

The Commission strongly encourages electronic filings of comments in lieu of paper using the ''eFile'' link at *http://www.ferc.gov.* In lieu of electronic filing, you may submit a paper copy which must reference the Project docket number.

To file via USPS:

Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier:

Debbie-Anne A. Reese, Acting Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202)502–6595 or *OPP@ferc.gov.*

Comment Date: 5 p.m. eastern time on October 9, 2024.

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22421 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

[1] Contested proceedings are those where an intervenor disputes any material issue of the filing. 18 CFR 385.2201(c)(1).

[2] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

[3] *Id.* at P 40.

[4] Similarly, the Commission will not re-litigate the issuance of an NGA section 3 authorization, including whether a proposed project is not inconsistent with the public interest and whether the Commission's environmental analysis for the permit order complied with NEPA.

[5] *Algonquin Gas Transmission, LLC,* 170 FERC ¶ 61,144, at P 40 (2020).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2601–077]

Northbrook Hydro Carolina II, LLC; Notice of Intent To Prepare an Environmental Assessment

On November 16, 2023, as supplemented on March 11, 2024, and April 30, 2024, Northbrook Hydro Carolina II, LLC filed an application to surrender the project license for the Bryson Hydroelectric Project No. 2601. The project is located on the Oconaluftee River in Swain County, North Carolina. The project does not occupy any Federal lands.

The project is located on the Oconaluftee River downstream of the Great Smoky Mountain National Park and the lands of the Eastern Band of Cherokee Indians (Qualla Boundary). The project boundary abuts the Qualla Boundary for 1.5 miles. The proposed mode of surrender would include disconnection from the utility interconnection point and the removal of the generators and turbines. The licensee would offer the generators, control equipment, and wiring for sale following decommissioning, or would properly dispose of the equipment. The proposal includes leaving the dam and associated structures intact and operational. The licensee intends to later deed ownership of the project to Mainspring Conservation Land Trust for potential future removal of the dam after the surrender is final.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the project.[1] The planned schedule for the completion of the EA is January 31, 2025. Revisions to the schedule may be made as appropriate. The EA will be issued and made available for review by all interested parties and a 30-day public comment period. All comments filed on the EA will be reviewed by staff and considered in the Commission's final decision on the proceeding.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others to access publicly available information and navigate Commission

[1] In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1726749058. 40 CFR 1501.5(c)(4) (2024).

processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Any questions regarding this notice may be directed to Michael Calloway at 202–502–8041 or *Michael.calloway@ferc.gov.*

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22424 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM07–16–000; AD22–11–000; AD21–9–000]

Office of Public Participation Fundamentals for Participating in FERC Matters; Notice of Enhancements To eComment

Take notice that effective September 25, 2024, the Federal Energy Regulatory Commission's (Commission) electronic application for filing comments, called eComment, will include improved functionalities. The main improvement is that eComment will accept comments in the additional Docket Types: AD, RM, and PL, which the Commission uses for policy type proceedings of general applicability such as rulemakings. Other system enhancements include extending the 30-minute session time out to 60 minutes; supporting comments of up-to 10,000 characters; and removing certain special character restrictions from eComment that in the past prevented the submission of comments.

These system enhancements were developed in response to public comments filed in Docket No. AD21–9 for the establishment of the Office of Public Participation regarding streamlining the steps for individuals to participate in rulemakings.

The enhancements to eComment do not change or affect eFiling. eFiling will continue to accept comments for all the Docket Types it currently supports.

For more information about eComment and FERC online, please contact FERC Online Support or call local: 202–502–6652, toll-free: 866–208–3676. Please include a current mail address, telephone number, and email address.

Dated: September 25, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22487 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD24–10–000]

Reliability Technical Conference; Supplemental Notice of Technical Conference

As announced in the Notice of Technical Conference issued in this proceeding on July 9, 2024, the Federal Energy Regulatory Commission (Commission) will convene its annual Commissioner-led Reliability Technical Conference in the above-referenced proceeding on Wednesday, October 16, 2024. The conference will take place from approximately 10:00 a.m. to 12:45 p.m. Eastern time. The conference will be held in-person at the Commission's headquarters at 888 First Street NE, Washington, DC 20426 in the Commission Meeting Room. The conference will be available to view online.

The purpose of this conference is to discuss policy issues related to the reliability and security of the Bulk-Power System. Attached to this Supplemental Notice is an agenda for the technical conference, which includes the technical conference program and expected panelists.

The conference will be open for the public to attend, and there is no fee for attendance. Information on this technical conference will also be posted on the Calendar of Events on the Commission's website, *www.ferc.gov,* prior to the event.

The conference will also be transcribed. Transcripts will be available for a fee from Ace Reporting, (202) 347–3700.

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov,* call toll-free (866) 208–3372 (voice) or (202) 208–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For more information about this conference, please contact Michael Gildea at *Michael.Gildea@ferc.gov* or (202) 502–8420 or Lodie White at *Lodie.White@ferc.gov* or (202) 502–8453. For information related to logistics, please contact Sarah McKinley at *Sarah.Mckinley@ferc.gov* or (202) 502–8368.

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22418 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER24–2448–001.

Applicants: Wisconsin Electric Power Company.

Description: Tariff Amendment: Amendment to Formula Rate Update Filing for 2023 Rate Year to be effective 9/1/2024.

Filed Date: 9/24/24.

Accession Number: 20240924–5132.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3096–000.

Applicants: Ridge Crest Wind Partners, LLC.

Description: Tariff Amendment: Notice of Cancellation to be effective 9/24/2024.

Filed Date: 9/23/24.

Accession Number: 20240923–5160.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3097–000.

Applicants: Reworld Delaware Valley, L.P.

Description: 205(d) Rate Filing: Notice of Succession to be effective 9/25/2024.

Filed Date: 9/24/24.

Accession Number: 20240924–5038.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3098–000.

Applicants: Reworld Essex Company.

Description: 205(d) Rate Filing: Notice of Succession to be effective 9/25/2024.

Filed Date: 9/24/24.

Accession Number: 20240924–5039.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3099–000.

Applicants: Reworld Fairfax, LLC.

Description: 205(d) Rate Filing: Notice of Succession to be effective 9/25/2024.

Filed Date: 9/24/24.

Accession Number: 20240924–5040.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3100–000.

Applicants: Reworld Plymouth, LLC.

Description: 205(d) Rate Filing: Notice of Succession to be effective 9/25/2024.

Filed Date: 9/24/24.

Accession Number: 20240924–5042.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3101–000.

Applicants: California Independent System Operator Corporation.

Description: 205(d) Rate Filing: 2024–09–24 Certificate of Concurrence—TEA with CAISO, WAPA & PG&E to be effective 1/1/2025.

Filed Date: 9/24/24.

Accession Number: 20240924–5120.

Comment Date: 5 p.m. ET 10/15/24.

Docket Numbers: ER24–3102–000.

Applicants: Milford Gen Lead, LLC.

Description: Baseline eTariff Filing: Filing of LGIA, TSA, and Development Agreement & Request for Waiver to be effective 11/1/2024.

Filed Date: 9/24/24.

Accession Number: 20240924–5135.

Comment Date: 5 p.m. ET 10/15/24.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members and others, access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22419 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 6634–003]

Shasta Meadows, Inc.; Notice of Intent To Prepare an Environmental Assessment

On February 8, 2019, Shasta Meadows, Inc. (exemptee) filed an application to surrender its exemption from licensing for the Prather Creek Project No. 6634. The project is located on Prather Creek, in Siskiyou County, California. The project does not occupy Federal lands.

The exemptee proposes to surrender its exemption for the project. The power purchasing agreement for the project expired in 2013. Currently, the project is non-operational and no water flows through the penstock. The exemptee proposes to leave all project works secured in place including the powerhouse and generator. A Notice of Application for Surrender of Exemption, Soliciting Comments, Motions to Intervene, and Protest was issued on December 12, 2022.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the project.[1] The planned schedule for the completion of the EA is November 21, 2024. Revisions to the schedule may be made as appropriate. The EA will be issued and made available for review by all interested parties and a 30-day public comment period. All comments filed on the EA will be reviewed by staff and considered in the Commission's final decision on the proceeding.

The Commission's Office of Public Participation (OPP) supports meaningful public engagement and participation in Commission proceedings. OPP can help members of the public, including landowners, environmental justice communities, Tribal members, and others to access publicly available information and navigate Commission processes. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, the public is encouraged to contact OPP at (202) 502–6595 or *OPP@ferc.gov.*

Any questions regarding this notice may be directed to Rebecca Martin at (202) 502–6012 or *Rebecca.martin@ferc.gov.*

[1] In accordance with the Council on Environmental Quality's regulations, the unique identification number for documents relating to this environmental review is EAXX–019–20–000–1726749309. 40 CFR 1501.5(c)(4) (2024).

Dated: September 24, 2024.

Debbie-Anne A. Reese,

Acting Secretary.

[FR Doc. 2024–22426 Filed 9–30–24; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–12144–02–R4]

Florida—Indian River-Vero Beach to Fort Pierce Aquatic Preserve Vessel Sewage No-Discharge Zone; Final Affirmative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of determination.

SUMMARY: The U.S. Environmental Protection Agency (EPA), Region 4 has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the Indian River-Vero Beach to Fort Pierce Aquatic Preserve (''the Preserve'') in Florida to support the designation of a vessel sewage no-discharge zone for such waters. Pursuant to the Clean Water Act section 312, this notice constitutes EPA's final affirmative determination on the application submitted by Florida on July 3, 2024. Following this final affirmative determination, Florida may designate all waters within the Preserve as a vessel sewage no-discharge zone in accordance with State law.

FOR FURTHER INFORMATION CONTACT: Jennifer Dimaio, Ocean, Wetlands, and Streams Protection Branch, Water Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960; telephone number: (404) 562–9268; email address: *dimaio.jennifer@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 3, 2024, Florida submitted an application to the U.S. Environmental Protection Agency (EPA), Region 4, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for waters of the Preserve so that Florida may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters. This application for a no-discharge zone was made pursuant to Clean Water Act section 312(f)(3).

The planned no-discharge zone would include all waters of the Preserve, as delineated in Chapter 258.39, Florida Statutes (F.S.), as described in the Official Records of Indian River County

in Book 368, pages 9–12, and in the Official Records of Saint Lucie County in Book 187, pages 1083–1086. This includes a segment of the Atlantic Intracoastal Waterway between approximately mile 953.5 (North 27 degrees 37.6153 minutes, West 80 degrees 22.1865 minutes) and mile 964.8 (North 27 degrees 28.3272 minutes, West 80 degrees 19.4741 minutes). The 9,500-acre Preserve extends 12 miles from the southern Vero Beach corporate limit to the north U.S. Highway A1A bridge in Fort Pierce and includes Big Starvation Cove, Wildcat Cove, and Fort Pierce Cut.

In 2021, the Florida Legislature passed Senate Bill 1086 creating Chapter 327.521, F.S., designating, upon approval from EPA, all waters within the boundaries of aquatic preserves identified in Chapter 258.39, F.S., as vessel sewage no-discharge zones. Florida's application and this final determination pertain only to the Indian River-Vero Beach to Fort Pierce Aquatic Preserve.

In its application, Florida certified that the protection and enhancement of the quality of the waters within the Preserve require greater environmental protection than is afforded by the applicable Federal standard. Florida also provided information on the vessel population and usage of the Preserve and identified the pumpout facilities available to service these vessels. Florida's application is available electronically in Docket ID No. EPA–R04–OW–2024–0379 through *https://www.regulations.gov.*

II. Response to Public Comments

On August 6, 2024, EPA published a tentative affirmative determination in the **Federal Register** that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters subject to Florida's proposed no-discharge zone and solicited the public's input during a 30-day comment period (89 FR 63941).

EPA received five comments on the tentative affirmative determination, four of which were in support of a no-discharge zone for the Preserve. First, a Florida boater who regularly pumps out a 43-foot cabin cruiser and traverses the 12-mile Preserve agreed that adequate pumpout facilities are reasonably available in the area. Additionally, one commenter expressed general support for the designation, noting that the Indian River Lagoon contains the county's healthiest seagrass beds. In its comment, the City of Vero Beach indicated that the city supports a no-discharge zone designation for the Preserve but requested guidance on how the city's corporate limits could be included in the designation. In a similar vein, another commenter recommended that EPA designate all seven preserves in the Indian River Lagoon area as no-discharge zones. EPA acknowledges these commenters' support for a no-discharge zone designation, but notes that the scope of EPA's determination is limited to those waters included in Florida's application dated July 3, 2024. To designate any other waters or preserves as vessel sewage no-discharge zones, Florida must first apply to EPA for a determination on those waters and provide the requisite information, as detailed in 40 CFR 140.4. Finally, one commenter discussed a proposed housing development adjacent to the Indian River Lagoon; however, this is outside the scope of EPA's action here to determine whether adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters subject to Florida's proposed no-discharge zone.

III. Adequacy and Availability of Pumpout Facilities

In the tentative determination, EPA outlined the Agency's role in evaluating Florida's application for a vessel sewage no-discharge zone under Clean Water Act section 312(f)(3), which requires that the Agency determine whether adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters proposed for a no-discharge zone designation.

Based on the information provided by Florida and EPA's subsequent review, there are an estimated 1,534 recreational vessels operating in the Preserve that will likely require pumpout services, and those vessels may be serviced by eight stationary sewage pumpout facilities (Table 1). During peak usage, EPA estimates that 614 recreational vessels can be served by these available facilities. This estimate is based on the number of vessels that can be serviced per hour by each available facility and the hours of operation of each facility. As such, EPA determined that adequate pumpout facilities are reasonably available to meet the expected demand during periods of peak recreational boating. Additionally, EPA finds that the cost for recreational vessels to access these facilities is minimal, with most of the facilities charging only five dollars per use.

Florida estimated that there are 146 commercial vessels operating within the Preserve that will likely require pumpout services, and those vessels may also be serviced by the eight stationary pumpout facilities (Table 1). Table 1 also includes two mobile service providers that were identified by Florida as having coverage areas that include the Preserve. To determine whether pumpout facilities are reasonably available to commercial vessels, EPA compared the volume of sewage produced by commercial vessels with the volume that can be received by available pumpout facilities and considered the costs associated with accessing and using those facilities. As described in the tentative affirmative determination, EPA's screening analysis showed that demand for pumpout services is never expected to exceed capacity in the Preserve, indicating that sufficient pumpout capacity is available for commercial vessels. In fact, capacity greatly exceeds demand, and EPA expects that this capacity surplus would be sufficient even if both recreational and commercial vessels access the facilities during peak usage. EPA also considered the various costs incurred by commercial vessels to determine how the proposed no-discharge zone would impact baseline operating costs. Working vessels (*e.g.,* tugboats) may incur an estimated 0.8 percent increase in baseline operating costs, while commercial fishing vessels may incur an estimated 6.3 percent increase. This increase is largely attributable to lost revenue due to the time it takes to pump out sewage from a vessel; however, these costs would only be incurred when the vessel operator is forgoing paid work in favor of pumping out sewage. The actual increase, therefore, is likely much lower on the basis that vessel operators should be able to time their pumpout activities to minimize cost impacts.

Finally, EPA verified that the treatment of wastes from the pumpout facilities is in conformance with federal law. As discussed in EPA's tentative affirmative determination, the wastewater treatment plants that receive sewage from the stationary pumpout facilities are the Fort Pierce Utilities Authority Wastewater Treatment Plant and the City of Vero Beach Wastewater Treatment Plant. Florida indicated that both facilities are in compliance with effluent limits and are not expected to be meaningfully impacted by an increase in volume of sewage to be treated as a result of a no-discharge zone designation.

IV. Determination

Based on EPA's review of both the information provided in Florida's application and the comments received on EPA's tentative affirmative

determination, EPA Region 4 hereby makes a final determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are available for the waters of the Indian River-Vero Beach to Fort Pierce Aquatic Preserve.

TABLE 1—LIST OF PUMPOUT FACILITIES

Name	Location	Contact information	Operating schedule	Water depth (feet)	Fee ($)	Type of facility
Causeway Cove Marina.	601 Seaway Dr., Fort Pierce, FL 34949.	(772) 242–3552	9 a.m.–5 p.m	5.6	5.00	Stationary.
Fort Pierce City Marina.	1 Ave. A, Fort Pierce, FL 34950.	(772) 464–1245	6:30 a.m.–5:30 p.m	7.6	5.00	Stationary.
Harbour Isle	801 Seaway Dr., Fort Pierce, FL 34949.	(772) 461–9049	9:30 a.m.–1:30 p.m. (Mon.–Fri.) 10 a.m.–1 p.m. (Sat.–Sun.).	9.0	5.00	Stationary.
Pelican Yacht Club	1120 Seaway Dr., Fort Pierce, FL 34949.	(772) 464–2700	11:30 a.m.–9 p.m. (Wed.–Sat.) 8 a.m.–6 p.m. (Sun.).	6.0	5.00	Stationary.
Quail Valley River Club.	2345 Hwy. A1A, Vero Beach, FL 32963.	(772) 492–2020	9:30 a.m.–4 p.m	8.0	5.00	Stationary.
Riverside Boatyard & Marina.	2350 Old Dixie Hwy., Fort Pierce, FL 34946.	(772) 464–5720	8 a.m.–7 p.m. (Mon.–Sat.)	6.0	Private	Stationary.
Safe Harbor Harbortown.	1936 Harbortown Dr., Fort Pierce, FL 34946.	(772) 466–7300	7 a.m.–5 p.m	6.5	15.00	Stationary.
Vero Beach Municipal Marina.	3611 Rio Vista Blvd., Vero Beach, FL 32963.	(772) 978–4960	8 a.m.–5 p.m	8.0	5.00	Stationary.
Coastal Tank	Service area from Miami to Fort Pierce.	(954) 562–8656	7 a.m.–5 p.m.; advanced scheduling for off hours and emergency services available.	N/A	Variable (*See Section II.B. of EPA's tentative determination for details*).	Mobile (3 trucks).
Marine and RV Pumping ToGo.	Service area from Key West to Florida/Georgia border.	(954) 740–7506	7 a.m.–7 p.m. (Mon.–Sat.); advanced scheduling for off days/hours and emergency services available.	N/A	Variable (*See Section II.B. of EPA's tentative determination for details*).	Mobile (9 trucks).

Dated: September 25, 2024.

Jeaneanne M. Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024–22499 Filed 9–30–24; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 248061]

Open Commission Meeting Thursday, September 26, 2024

September 19, 2024.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, September 26, 2024, which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: *www.fcc.gov/visit.* Open Meetings are streamed live at: *www.fcc.gov/live* and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1	CONSUMER & GOVERNMENTAL AFFAIRS.	*Title:* Access to Video Conferencing Services (CG Docket No. 23–161); Implementation of Sections 716 and 717 of the Communications Act of 1934, as enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CG Docket No. 10–213); Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (CG Docket No. 03–123); Petition of Sorenson Communications, LLC for Limited Waiver of the Privacy Screen Rule. *Summary:* The Commission will consider a Second Report and Order and Further Notice of Proposed Rulemaking to ensure that people with disabilities can fully participate in video conferencing, including by the use of telecommunications relay services (TRS).
2	CONSUMER & GOVERNMENTAL AFFAIRS.	*Title:* Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59); Targeting and Eliminating Unlawful Text Messages (CG Docket No. 21–402). *Summary:* The Commission will consider a Report and Order that would bolster current FCC rules on blocking and robocall mitigation in key areas, including by expanding requirements to block calls based on reasonable do-not-originate lists and by creating new financial penalties for carriers who fail to protect consumers from illegal calls.
3	SPACE	*Title:* Amendment of Parts 2 and 25 of the Commission's Rules to Enable NGSO Fixed-Satellite Service (Space-to-Earth) Operations in the 17.3–17.8 GHz Band (IB Docket No. 22–273).

Item No.	Bureau	Subject
		Summary: The Commission will consider a Report and Order that will provide 1300 megahertz of spectrum in the 17 GHz band for non-geostationary satellite orbit (NGSO) space stations in the fixed-satellite service (FSS) while also protecting incumbent operations. The Order provides a more cohesive global framework for FSS operators and maximizes the efficient use of the 17 GHz band spectrum.
4	MEDIA	*Title:* Modifying Rules for FM Terrestrial Digital Audio Broadcasting Systems (MB Docket No. 22–405).
		Summary: The Commission will consider a Report and Order implementing a streamlined process for authorizing digital transmissions at different power levels on the upper and lower digital sideband in order to enhance digital FM radio coverage and prevent interference.
5	ENFORCEMENT	*Title:* Enforcement Bureau Action.
		Summary: The Commission will consider an enforcement action.
6	ENFORCEMENT	*Title:* Enforcement Bureau Action.
		Summary: The Commission will consider an enforcement action.
7	ENFORCEMENT	*Title:* Enforcement Bureau Action.
		Summary: The Commission will consider an enforcement action.
8	ENFORCEMENT	*Title:* Enforcement Bureau Action.
		Summary: The Commission will consider an enforcement action.
9	ENFORCEMENT	*Title:* Enforcement Bureau Action.
		Summary: The Commission will consider an enforcement action.
10	ENFORCEMENT	*Title:* Enforcement Bureau Action.
		Summary: The Commission will consider an enforcement action.
11	ENFORCEMENT	*Title:* Enforcement Bureau Action.
		Summary: The Commission will consider an enforcement action.

* * * * *

The meeting will be webcast at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Press Access—Members of the news media are welcome to attend the meeting and will be provided reserved seating on a first-come, first-served basis. Following the meeting, the Chairwoman may hold a news conference in which she will take questions from credentialed members of the press in attendance. Also, senior policy and legal staff will be made available to the press in attendance for questions related to the items on the meeting agenda. Commissioners may also choose to hold press conferences. Press may also direct questions to the Office of Media Relations (OMR): *MediaRelations@fcc.gov.* Questions about credentialing should be directed to OMR.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Marlene Dortch,

Secretary.

[FR Doc. 2024–22454 Filed 9–30–24; 8:45 am]

BILLING CODE 6712–01–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 16, 2024.

A. Federal Reserve Bank of Atlanta (Erien O. Terry, Assistant Vice President) 1000 Peachtree Street NE, Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *Anchor Bank Irrevocable Trust, Coral Gables, Florida, Guido E. Hinojosa Cardoso, as trustee, La Paz, Bolivia;* to acquire voting shares of Anchor Bancorp, Inc., and thereby indirectly acquire voting shares of Anchor Bank, both of Palm Beach Gardens, Florida.

B. 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. *J. Thomas MacFarlane, Bloomfield, Michigan, as trustee of the K.I.S.S. Dynasty Trust No. 9 (dated December*

28, 2023), Sioux Falls, South Dakota; to retain control of voting shares of Sterling Bancorp, Inc. (Bancorp), and thereby indirectly retain control of voting shares of Sterling Bank and Trust, FSB (Bank), both of Southfield, Michigan. In addition, J. Thomas MacFarlane, to become trustee of the Scott J. Seligman 1993 Long Term Irrevocable Dynasty Trust and the Scott J. Seligman 1993 Irrevocable Dynasty Trust, both of Sioux Falls, South Dakota, and acquire control of additional voting shares of Bancorp and thereby indirectly acquire control of voting shares of Bank.

C. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri, 64198–0001. Comments can also be sent electronically to *KCApplicationComments@kc.frb.org:*

1. *Clarkson Lauritzen, as Chairman of Lauritzen Corporation and Vice President of FirstLine Insurance Services, Inc.; as voting representative of the Bruce R. Lauritzen 2022 Grantor Retained Annuity Trust III–A, dated June 16, 2022, and the Bruce R. Lauritzen 2023 Grantor Retained Annuity Trust III–A, dated June 16, 2023; and as trustee the 2012 Dynasty Trust for the Benefit of Clarkson D. Lauritzen, three trusts each for the benefit of a minor child of Clarkson Lauritzen, and the previously approved Bruce R. Lauritzen Revocable Trust dtd 9/2/05; all of Omaha, Nebraska;* to retain voting shares of First National of Nebraska, Inc. (FNNI), and thereby indirectly retain voting shares of First National Bank of Omaha (FNBO), both of Omaha, Nebraska.

In addition, the Bruce R. Lauritzen 2022 Grantor Retained Annuity Trust III–A, dated June 16, 2022, and the Bruce R. Lauritzen 2023 Grantor Retained Annuity Trust III–A, dated June 16, 2023, FNBO, trustee, Clarkson Lauritzen, voting representative; the 2012 Dynasty Trust for the Benefit of Clarkson D. Lauritzen, three trusts each for the benefit of a minor child of Clarkson Lauritzen, Clarkson Lauritzen, trustee; the Clarkson D. Lauritzen Dynasty Trust and the Emily Lauritzen Revocable Trust dtd 7/22/2008, Emily Lauritzen, trustee; the Bruce R. Lauritzen 2022 Grantor Retained Annuity Trust I–A, dated June 16, 2022, and the Bruce R. Lauritzen 2023 Grantor Retained Annuity Trust I–A, dated June 16, 2023, FNBO, trustee, Margaret Dodge, voting representative; the 2012 Dynasty Trust for the Benefit of Margaret Lauritzen Dodge, the 2019 John P. Dodge Irrevocable Trust, the 2019 Isabelle C. Dodge Irrevocable Trust, the 2019 Eleanor W. Dodge Irrevocable Trust, and the 2019 Laura C. Dodge Irrevocable Trust, Margaret Dodge, trustee; the Margaret Lauritzen Dodge Irrevocable Legacy Trust, Nathan Dodge, trustee, individually and through McKay Investments LLC; McKay Investments LLC, Margaret Lauritzen Dodge Irrevocable Legacy Trust, Nathan Dodge, trustee; the Bruce R. Lauritzen 2022 Grantor Retained Annuity Trust II–A, dated June 16, 2022, and the Bruce R. Lauritzen 2023 Grantor Retained Annuity Trust II–A, dated June 16, 2023, FNBO, trustee, Blair Gogel, voting representative; the 2012 Dynasty Trust for the Benefit of Blair Lauritzen Gogel, the 2019 Kimball A. Gogel Irrevocable Trust, and the 2019 Thomas M. Gogel Irrevocable Trust, Blair Gogel, trustee; the Emily Wahl Lauritzen Irrevocable Dynasty Trust, dated June 17, 2020, FNBO, trustee, Blair Gogel, investment committee member, individually and through KBL LLC; KBL LLC, Emily Wahl Lauritzen Irrevocable Dynasty Trust dtd 6/17/20 Class A Holder, FNBO, trustee, Blair Gogel, investment committee member; Lookout Mountain LLC, Blair Lauritzen Gogel Irrevocable Legacy Trust dtd 3/15/23, Matt Gogel, trustee; the Ann L. Pape Family Dynasty Trust dtd 12/23/16, FNBO, trustee, Matthew Pape and Brady Pape, Special Holdings Direction Advisors, and Pape Investments, LLC, the Brady Pape Gibson Irrevocable Dynasty Trust, dated 11/22/16, FNBO and Ryan R. Gibson, co-trustees, the Matthew M. Pape Irrevocable Dynasty Trust, dtd 11/11/15, FNBO and Kimberly S. Pape, co-trustees, all as interest holders of EDL Investment Co. LLC, a previously approved member of the Lauritzen Family Group; the Ann L. Pape Revocable Trust, Ann Lauritzen Pape, trustee, individually and through EDL Investment Co. LLC; the Ann L. Pape 2021 First National of Nebraska, Inc. Three-Year Progressive Payment GRAT Agreement, FNBO, trustee, Brady Gibson & Matthew Pape, Special Holding Direction Advisors, individually and through EDL Investment Co. LLC The Brady Pape Gibson 2022 Grantor Retained Annuity Trust and the Brady Pape Gibson 2020 Irrevocable Dynasty Trust, FNBO and Ryan Gibson, co-trustees; the Matthew M. Pape 2022 Grantor Retained Annuity Trust and the Matthew M. Pape 2020 Irrevocable Dynasty Trust, FNBO and Kimberly Pape, co-trustees; the Elizabeth Lauritzen Family Trust fbo Matthew Pape and the Elizabeth Lauritzen Family Trust fbo Brady Gibson, FNN Trust Company, Mitchel, South Dakota and Ann Lauritzen Pape, co-trustees; three trusts each for the benefit of a minor child of Matthew Pape, FNBO, trustee, and Matthew Pape, Special Holdings Direction Advisor; and three trusts each for the benefit of a minor child of Brady Gibson, FNBO, trustee, and Brady Gibson, Special Holdings Direction Advisor; all of the aforementioned individuals, trusts, and LLCs are of Omaha, Nebraska unless otherwise specifically noted; to become members of the Lauritzen Family Group, a group acting in concert, to retain voting shares of FNNI, and thereby indirectly retain voting shares of FNBO.

Finally, Blair Gogel, Mission Hills, Kansas, as Vice President of FirstLine Insurance Services; as voting representative of the Bruce R. Lauritzen 2022 Grantor Retained Annuity Trust II–A, dated June 16, 2022, and the Bruce R. Lauritzen 2023 Grantor Retained Annuity Trust II–A, dated June 16, 2023; as trustee of the 2012 Dynasty Trust for the Benefit of Blair Lauritzen Gogel, the 2019 Kimball A. Gogel Irrevocable Trust, and the 2019 Thomas M. Gogel Irrevocable Trust; and as investment committee member of the Emily Wahl Lauritzen Irrevocable Dynasty Trust, dated June 17, 2020, which controls KBL, LLC; trusts and LLC all of Omaha, Nebraska; to acquire voting shares of FNNI, and thereby indirectly acquire voting shares of FNBO.

2. *Clarkson Lauritzen, as trustee of the Clarkson D. Lauritzen Revocable Trust, and the previously approved John R. Lauritzen Irrevocable Trust and Elizabeth D. Lauritzen Irrevocable Trust, all of Omaha, Nebraska; the Clarkson D. Lauritzen Revocable Trust, Clarkson Lauritzen, trustee; the Margaret L. Dodge Revocable Trust, Margaret Dodge, individually and as trustee, all of Omaha, Nebraska; the Bruce R. Lauritzen 2022 Grantor Retained Annuity Trust I–A, dated June 16, 2022 and the Bruce R. Lauritzen 2023 Grantor Retained Annuity Trust I–A, dated June 16, 2023, First National Bank of Omaha (FNBO), trustee, Margaret Dodge, voting representative, all of Omaha, Nebraska; the Bruce R. Lauritzen 2022 Grantor Retained Annuity Trust II–A, dated June 16, 2022 and the Bruce R. Lauritzen 2023 Grantor Retained Annuity Trust II–A, dated June 16, 2023, both of Omaha, Nebraska, FNBO, trustee, Blair Gogel, as voting representative, Mission Hills, Kansas; and the Blair Gogel Revocable Trust, Omaha, Nebraska, Blair Gogel, trustee;* to become members of the Lauritzen Family Group, a group acting in concert*;* to retain voting shares of Lauritzen Investments, Incorporated (Investments), Omaha, Nebraska, and thereby indirectly retain voting shares of Farmers and Merchants State Bank,

Bloomfield, Nebraska (F&M), Bloomfield, Nebraska.

In addition, the John R. Lauritzen 1972 Trust f/b/o Margaret L. Dodge & Family, First National Bank of Omaha (FNBO) and Margaret Dodge, co-trustees, all of Omaha, Nebraska; the John R. Lauritzen 1972 Trust f/b/o Blair L. Gogel & Family, FNBO, co-trustee, both of Omaha, Nebraska, and Blair Gogel, co-trustee, Mission Hills, Kansas; the Elizabeth D. Lauritzen 1972 Trust f/b/o Margaret L. Dodge & Family, FNBO and Margaret Dodge, co-trustees; the Elizabeth D. Lauritzen 1972 Trust f/b/o Blair L. Gogel & Family, FNBO and Blair Gogel, co-trustees; both trusts of Omaha, Nebraska; and Blair Gogel, individually; to become members of the Lauritzen Family Group; to acquire voting shares of Investments, and thereby indirectly acquire voting shares of F&M.

3. *Clarkson Lauritzen, individually, as voting representative of the Bruce R. Lauritzen 2022 Grantor Retained Annuity Trust III–A, dated June 16, 2022 and the Bruce R. Lauritzen 2023 Grantor Retained Annuity Trust III–A, dated June 16, 2023, and as trustee of the Clarkson D. Lauritzen Revocable Trust, the Clarkson D. Lauritzen GST-Exempt Trust, and the previously approved John R. Lauritzen Irrevocable Trust and Elizabeth D. Lauritzen Irrevocable Trust, all of Omaha, Nebraska; the Margaret L. Dodge Revocable Trust and the Margaret L. Dodge GST Exempt Trust, Margaret Dodge, trustee, all of Omaha, Nebraska; the Blair L. Gogel Revocable Trust and the Blair L. Gogel GST-Exempt Trust, both of Omaha, Nebraska, Blair Gogel, trustee, Mission Hills, Kansas; and the Emily Wahl Lauritzen Irrevocable Dynasty Trust, dated June 17, 2020, Omaha, Nebraska, FNBO, trustee, Blair Gogel, investment committee member;* to become members of the Lauritzen Family Group, a group acting in concert; to retain voting shares of Lauritzen Corporation, Omaha, Nebraska (Corporation), and thereby indirectly retain voting shares of First National of Nebraska, Inc. (FNNI), and its subsidiary, First National Bank of Omaha (FNBO), both of Omaha, Nebraska.

In addition, the John R. Lauritzen 1972 Trust f/b/o Clarkson D. Lauritzen & Family, First National Bank of Omaha (FNBO) and Clarkson Lauritzen, co-trustees, all of Omaha, Nebraska; the Elizabeth D. Lauritzen 1972 Trust f/b/o Clarkson D. Lauritzen & Family, FNBO and Clarkson Lauritzen, co-trustees; the John R. Lauritzen 1972 Trust f/b/o Margaret L. Dodge & Family and the Elizabeth D. Lauritzen 1972 Trust f/b/o Margaret L. Dodge & Family, FNBO and Margaret Dodge, co-trustees; the John R. Lauritzen 1972 Trust f/b/o Blair L. Gogel & Family and the Elizabeth D. Lauritzen 1972 Trust f/b/o Blair L. Gogel & Family, FNBO and Blair Gogel, co-trustees, trusts all of Omaha, Nebraska; Margaret Dodge, individually; and Blair Gogel, individually; to become members of the Lauritzen Family Group, to acquire voting shares of Corporation, and thereby indirectly acquire voting shares of FNNI and its subsidiary FNBO.

4. *Clarkson Lauritzen, as trustee of the previously approved John R. Lauritzen Irrevocable Trust and the Elizabeth D. Lauritzen Irrevocable Trust, all of Omaha, Nebraska;* to retain voting shares of Danes Holdings, Inc., Omaha, Nebraska (Danes), and thereby indirectly retain voting shares of Shelby County State Bank, Harlan, Iowa (SCB).

In addition, the John R. Lauritzen 1972 Trust f/b/o Clarkson D. Lauritzen & Family, First National Bank of Omaha (FNBO) and Clarkson Lauritzen, co-trustees; and the Elizabeth D. Lauritzen 1972 Trust f/b/o Clarkson D. Lauritzen & Family, FNBO and Clarkson Lauritzen, co-trustees, all of Omaha, Nebraska; to acquire voting shares of Danes, and thereby indirectly acquire voting shares of SCB.

5. *Clarkson Lauritzen, as trustee of the previously approved John R. Lauritzen Irrevocable Trust and the Elizabeth D. Lauritzen Irrevocable Trust, all of Omaha, Nebraska;* to retain voting shares of Red Oak Financial Corporation, Omaha, Nebraska (Red Oak), and thereby indirectly retain voting shares of Houghton State Bank, Red Oak, Iowa (HSB).

In addition, the John R. Lauritzen 1972 Trust f/b/o Clarkson D. Lauritzen & Family, First National Bank of Omaha (FNBO) and Clarkson Lauritzen, co-trustees; and the Elizabeth D. Lauritzen 1972 Trust f/b/o Clarkson D. Lauritzen & Family, FNBO and Clarkson Lauritzen, co-trustees, all of Omaha, Nebraska; to become members of the Lauritzen Family Group, a group acting in concert, to acquire voting shares of Red Oak, and thereby indirectly acquire voting shares of HSB.

6. *Clarkson Lauritzen, as trustee of the previously approved John R. Lauritzen Irrevocable Trust and the Elizabeth D. Lauritzen Irrevocable Trust, all of Omaha, Nebraska;* to retain voting shares of York Holdings, Inc., Omaha, Nebraska (YHI), and thereby indirectly retain voting shares of York State Bank, York, Nebraska (YSB).

In addition, the John R. Lauritzen 1972 Trust f/b/o Margaret L. Dodge and Family, First National Bank of Omaha (FNBO) and Margaret Dodge, co-trustees; and the Elizabeth D. Lauritzen 1972 Trust f/b/o Margaret L. Dodge and Family, FNBO and Margaret Dodge, co-trustees, all of Omaha, Nebraska; to become members of the Lauritzen Family Group, a group acting in concert, to acquire voting shares of YHI, and thereby indirectly acquire voting shares of YSB.

7. *Clarkson Lauritzen, as trustee of the previously approved John R. Lauritzen Irrevocable Trust and the Elizabeth D. Lauritzen Irrevocable Trust, all of Omaha, Nebraska;* to retain voting shares of Blair Holdings, Inc., Omaha, Nebraska (BHI), and thereby indirectly retain voting shares of Washington County Bank, Blair, Nebraska (WCB).

In addition, the John R. Lauritzen 1972 Trust f/b/o Margaret L. Dodge and Family, First National Bank of Omaha (FNBO) and Margaret Dodge, co-trustees; and the Elizabeth D. Lauritzen 1972 Trust f/b/o Margaret L. Dodge and Family, FNBO and Margaret Dodge, co-trustees, all of Omaha, Nebraska; to become members of the Lauritzen Family Group, a group acting in concert, to acquire voting shares of BHI, and thereby indirectly acquire voting shares of WCB.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2024–22512 Filed 9–30–24; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

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 the BHC Act (12 U.S.C. 1842(c)).

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 31, 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. *First Busey Corporation, Champaign, Illinois,* to merge with CrossFirst Bankshares, Inc., and thereby indirectly acquire CrossFirst Bank, both of Leawood, Kansas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Associate Secretary of the Board.

[FR Doc. 2024–22513 Filed 9–30–24; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice-MRB–2024–05; Docket No. 2022–0002; Sequence No. 44]

Notice of First and Second Meetings of the Open Government Federal Advisory Committee

AGENCY: Office of Government-wide Policy, General Services Administration (GSA).

ACTION: Notice.

SUMMARY: The General Services Administration (GSA) is providing notice of the first and second meetings of the Open Government Federal Advisory Committee (hereinafter ''the Committee'' or ''the OG FAC''). Both meetings are open to the public.

DATES: The GSA OG FAC will hold a virtual (webcast) administrative meeting, which is open to the public, on October 18, 2024, from 1 p.m. to 3:30 p.m. Eastern Daylight Time (EDT). The GSA OG FAC will hold a hybrid (webcast and in-person) open public meeting on October 23, 2024, from 1 p.m. to 3:30 p.m. EDT. We request that you register by 5 p.m. EDT October 17, 2024, and 5 p.m. EDT October 22, 2024, respectively. To receive the webcast information see registration information below.

ADDRESSES: The October 18, 2024 and October 23, 2024 meetings will be available via webcast. Registrants will receive the webcast information when they register for either or both meetings. The October 23, 2024 meeting is hybrid, the in-person location is the GSA Auditorium located at 1800 F Street NW, Washington, DC 20405. In-person registrants will receive building access information before the meeting.

FOR FURTHER INFORMATION CONTACT: Arthur Brunson, OG FAC Designated Federal Officer, Office of Government-wide Policy, 202–501–1126, or email: *arthur.brunson@gsa.gov;* or email: *ogfac@gsa.gov*.

SUPPLEMENTARY INFORMATION: The Administrator of the U.S. General Services Administration (GSA) established the Open Government Federal Advisory Committee (OG FAC) as a discretionary advisory committee under agency authority in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. 10.

The OG FAC will serve as an advisory body to GSA on GSA's Open Government initiatives including GSA's creation, implementation and monitoring of U.S. Open Government National Action Plans (NAPs) and commitment themes. The initial focus for the OG FAC will be to provide advice to GSA on the development of NAP 6, Open Government Policy, and Public Engagement. The OG FAC will advise GSA's Administrator on emerging open government issues, challenges and opportunities to support GSA's Open Government Secretariat.

Purpose of the Meetings

Meeting (1) October 18, 2024

The purpose of the first administrative meeting is to complete the OG FAC members onboarding process. The public is invited to attend this administrative meeting. The meeting is virtual-only and will be recorded.

October 18, 2024 Agenda

- Call to Order/Roll Call
- OG FAC Member Introductions
- Ethics Briefing
- Federal Advisory Committee Act (FACA) Overview
- Review Charter and By-laws
- Vote: Adoption of By-laws
- October 23, 2024 Meeting
- Closing Remarks and Adjournment

Meeting (2) October 23, 2024

The purpose of the second meeting is to review the OG FAC Charter, Purpose, and Goals, and to begin the Committee's work. The public is provided the opportunity to attend this hybrid and recorded meeting both in-person and virtually.

October 23, 2024 Agenda

- Call to Order/Roll Call
- Opening Remarks
- OG FAC Objectives and Priorities
- Open Government Secretariat Overview
- National Action Plan 6 Timeline Overview
- Oral Public Comments
- Closing Remarks and Adjournment

Registration Information

Registration is requested for in-person attendance and required for webcasts. An email address is requested so that we can provide you with information to access the meeting.

October 18, 2024 Virtual Only Registration

https://gsa.zoomgov.com/webinar/register/WN_XykOAOv1Tv-cex1nDOdmww.

October 23, 2024 Registration

In-Person Registration: *https://forms.gle/ziF43BUKNnYZk6Ez7*.

Virtual Registration: *https://gsa.zoomgov.com/meeting/register/vJItdOisqT8tHn6XokpIvs1ZtLYmL2yFszc*.

If you plan to attend the October 23, 2024, meeting in-person, you will go through security screening when you enter the building.

Meeting Materials

The meeting agendas and materials will be posted on our website at: *https://www.gsa.gov/governmentwide-initiatives/us-open-government/open-government-federal-advisory-committee#tab—Committee-meetings,* prior to the October 18, 2024 meeting and prior to the October 23, 2024.

Public Comment

Written public comments will be provided to OG FAC members in advance of the meeting if received by COB, Friday, October 11, 2024, for the Friday, October 18, 2024 meeting; and by COB, Wednesday, October 16, 2024,

for the Wednesday, October 23, 2024 meeting, respectively. Written comments may be sent to *ogfac@gsa.gov.* We request all written comments have the relevant meeting date in the email subject line based on the due dates above.

If you wish to offer oral public comments during the public comments period of the October 23, 2024 meeting, you must register in advance. We request that you register by Tuesday, October 22, 2024, no later than 5 p.m. EDT. All oral public comments will be limited to three (3) minutes per individual and may be made in-person or virtually.

Special Accommodations

For information on services for individuals with disabilities, or to request accommodation of a disability, please contact the Designated Federal Officer at least 10 business days prior to the meeting to give GSA as much time as possible to process the request. Closed captioning and live ASL interpreter services are available.

Mehul Parekh,

Acting, Associate Administrator, Office of Government-wide Policy, General Services Administration.

[FR Doc. 2024–22406 Filed 9–30–24; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[30Day–24–0051]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Agency for Toxic Substances and Disease Registry (ATSDR) has submitted the information collection request titled ''Assessment of Chemical Exposures (ACE) Investigations'' to the Office of Management and Budget (OMB) for review and approval. ATSDR previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on June 25, 2024, to obtain comments from the public and affected agencies. ATSDR received one comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

ATSDR will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Assessment of Chemical Exposures (ACE) Investigations (OMB Control No. 0923–0051, Exp. 10/31/2024)—Revision—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) is requesting to revise the Assessment of Chemical Exposures (ACE) Investigations information collection project and seeks a three-year OMB approval to assist state and local health departments after toxic substance spills or other acute environmental incidents. The current OMB approval for this information collection expires 10/31/2024. ATSDR has successfully completed three investigations to date. With the uses of this valuable mechanism, ATSDR would like to continue this impactful information collection. See below for a brief summary of information collections approved under this tool:

- During 2015, in U.S. Virgin Islands there was a methyl bromide exposure at a condominium resort. Under this ACE investigation, awareness among pest control companies that methyl bromide is currently prohibited in homes and other residential settings. Additionally, clinicians were made aware of the toxicologic syndrome caused by exposure to methyl bromide and the importance of notifying first responders immediately when they have encountered contaminated patients.
- During 2016, ACE Investigations teams conducted a rash investigation in Flint, Michigan. Persons exposed to Flint municipal water who had current or worsening rashes surveyed were referred too free dermatologist screening if desired. Findings revealed that when the city was using water from the Flint River, where there were large swings in chorine, pH, and hardness, which could be one possible explanation for the eczema-related rashes.
- During 2016, ACE Investigations teams also conducted a follow-up investigation for people who were exposed to the Flint municipal water and sought care from the free dermatology exam. The follow-up interviews resulted in improving the exam and referral processes that were still ongoing at the time.

ACE Investigations have focused on performing rapid epidemiological assessments to assist state, regional, local, or tribal health departments (the requesting agencies) to respond to or prepare for acute environmental incidents. The main objectives for performing these rapid assessments are to:

- Characterize exposure and acute health effects of the affected community to inform health officials and the community;
- Identify needs (*i.e.,* medical, mental health, and basic) of those exposed during the incidents to aid in planning interventions in the community;
- Determine the sequence of events responsible for the incident so that actions can be taken to prevent future incidents;
- Assess the impact of the incidents on the emergency response and health services used and share lessons learned for use in hospital, local, and state planning for environmental incidents; and
- Identify cohorts that may be followed and assessed for persistent

health effects resulting from environmental releases.

Because each incident is different, it is not possible to predict in advance exactly what type of, and how many respondents will be consented and interviewed to effectively evaluate the incident. Respondents typically include, but are not limited to, emergency responders such as police, fire, hazardous material technicians, emergency medical services, and personnel at hospitals where patients from the incident were treated. Incidents may occur at businesses or in the community setting; therefore, respondents may also include business owners, managers, workers, customers, community residents, and those passing through the affected area.

The multidisciplinary ACE Investigations Team—consisting of staff from ATSDR, the Centers for Disease Control and Prevention (CDC), and the requesting agencies will be collecting data. ATSDR has developed a tailored series of draft survey forms used in the field to collect data that will meet the goals of each investigation. ATSDR collections will be administered based on time permitted and urgency. For example, it is preferable to administer the General Survey to as many respondents as possible. However, if there are time constraints, the shorter Epidemiologic Contact Assessment Symptom Exposure (Epi CASE) Survey, may be administered, instead. The individual surveys collect information about exposure, acute health effects, health services use, medical history, needs resulting from the incident, communication during the release, health impact on children, and demographic data. Hospital personnel are asked about the surge, response and communication, decontamination, and lessons learned. Depending on the situation, data collected by face-to-face interviews, telephone interviews, written surveys, mailed surveys, or on-line self-administered surveys can be collected. Medical charts may also be considered for review. In rare situations, an investigation might involve collection of clinical specimens.

ATSDR is proposing to increase the utility of this Generic ICR in response to stakeholder requests. We would also like to broaden who we may assist to include other federal public health agencies. ATSDR proposes revisions to select information collection forms, which will be deployed online or using handheld devices whenever possible to reduce burden, and to adjust the number of responses and time per response for several forms. Because of this, addition of online self-administration method, ATSDR expects to be able to survey many more people than during previous large disasters. A brief Eligibility Screener will be conducted before the General or Epi CASE survey to make sure respondents were in the area at the time of the incident, before consenting them to be surveyed. The number of people to be screened will be increased to 2,500 responses per year. The shorter Epi CASE survey has been modified to incorporate the symptom checker showcard into the survey so that it can be easily self-administered online, and questions on functional disabilities were added as requested by stakeholders adding two minutes (now 17 minutes and 1,000 respondents). The General survey will also have an online option. For simplicity, adolescents will no longer be eligible to take the General Survey and the Child Survey will become a module of the General survey for adults to answer for their minor children. At stakeholder direction we have added modules to the General Survey for responder, pets and livestock health, and a community resilience qualitative question bank. The General Survey has also added questions requested by stakeholders on functional disabilities and maternal and child health. The two existing long mental health screeners are replaced by three shorter ones and the Race/Ethnicity questions are now consistent with OMB guidance. Qualitative questions were added to several sections throughout the survey. These changes add to the time of the survey and the online self-administration option allows for an increase in respondents (now 60 minutes, 1000 responses annually). The Household Survey will be removed because of little use. The Hospital Survey for Emergency Department (ED) nurses and other health professionals on how they handled the response is unchanged (40 responses per year; 17 hours). ATSDR is modifying the Medical Chart Abstraction Form with slight question changes suggested by a medical toxicologist, and by adding functional disability questions and modifying the Race/Ethnicity questions to the new OMB standards. This will have no effect on overall burden (250 responses per year; 125 hours).

ATSDR anticipates approximately one ACE investigation per year. ATSDR requests approval 1,508 annual burden hours. Participation in ACE investigations is voluntary and there are no anticipated costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Residents, first responders, business owners, employees, customers.	Eligibility Screener	2,500	1	2/60
	Epi CASE Survey	1,000	1	17/60
	General survey	1,000	1	60/60
Hospital staff	Hospital Survey	40	1	25/60
Staff from state, local, or tribal health agencies.	Medical Chart Abstraction Form	25	10	30/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–22472 Filed 9–30–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–24–24JB; Docket No. CDC–2024–0075]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Surveillance for *C. auris* Cases. The purpose of this project is to collect minimal pertinent information about *C. auris* cases based on the Council of State and Territorial Epidemiologists (CSTE) case definition.

DATES: CDC must receive written comments on or before December 2, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0075 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.* Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

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. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

National Surveillance for *C. auris* Cases—New—National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Candida auris (C. auris) is an emerging healthcare-associated fungal pathogen associated with high mortality and antifungal resistance. The incidence of C. auris cases has continued to increase globally and in the United States. Most cases are the result of healthcare transmission and have mortality estimates between 30–60%. C. auris can asymptomatically colonize the skin and other body sites, which contributes to potential spread and increases patients' risk of clinical infections. The persistence of C. auris on the skin has been linked to an increased risk in the development of C. auris-related bloodstream infections in adults and pediatric cases. These clinical infections can be severe and invasive and are associated with high mortality.

The goal of the National Surveillance for C. auris Cases is to monitor burden to guide public health action and ultimately prevent morbidity and mortality from C. auris. In coordination with the states/jurisdictions that submit data, CDC plans to share, present, and publish findings to the general public on the burden of C. auris in the United States. CDC requests OMB approval of an estimated 1,303 annual burden hours. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
States/Jurisdictions	MDB Candida auris	46	340	5/60	1,303
Total					1,303

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–22476 Filed 9–30–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–24–1046; Docket No. CDC–2024–0074]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Monitoring Activities. This data collection is designed to systematically collect information about implementation, including delivery of screening and follow-up clinical services, and outcomes of the National Breast and Cervical Cancer Early Detection Program (NBCCEDP).

DATES: CDC must receive written comments on or before December 2, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0074 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

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. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Monitoring Activities (OMB Control No. 0920–1046, Exp. 03/31/2025)—Revision—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a Revision of the information collection titled National Breast and Cervical Cancer Early Detection Program (NBCCEDP) Monitoring Activities (OMB Control No. 0920–1046). The information collection consists of an annual NBCCEDP survey, baseline and annual clinic-level data collection, a quarterly program update (QPU) tool, a service delivery projection worksheet, and minimum data elements (MDEs). CDC proposes revisions to the Annual NBCCEDP Survey, clinic-level data collection tool and QPU, and continued use of the service delivery projection worksheet and MDEs with no changes. The number of respondents will increase from 70 to 71 and the total estimated annualized burden will decrease from 1,220 hours to 1,162 hours.

Breast and cervical cancers are prevalent among U.S. women. In 2021, the U.S. experienced 272,454 new cases and 42,211 deaths as a result of breast cancer, as well as 12,536 new cases and 4,051 deaths as a result of cervical cancer. Evidence shows that deaths from both breast and cervical cancers can be avoided by increasing screening services—mammography, pap, and human papillomavirus (HPV) tests—among women. However, in 2021, approximately one quarter of adults were not up to date with breast and/or cervical cancer screening, and screening was underutilized among women who are under- or uninsured, have no regular source of healthcare, or who recently immigrated to the U.S. As a longstanding priority within chronic disease prevention, CDC focuses on increasing access to these cancer screenings, particularly among women who may be at increased risk.

To improve access to cancer screening, Congress passed the Breast and Cervical Cancer Mortality Prevention Act of 1990 (Pub. L. 106–354), which directed CDC to create the National Breast and Cervical Cancer Early Detection Program (NBCCEDP). The NBCCEDP currently provides funding to 71 recipients under ''Cancer Prevention and Control Programs for State, Territorial, and Tribal Organizations (DP22–2202).'' NBCCEDP awardees include states or their bona fide agents; U.S. territories; and tribes or tribal organizations. The purpose of NBCCEDP is to increase breast and cervical cancer screening rates among women residing within defined geographical locations (as determined by the funded program) who are at or below 250% of the federal poverty level; aged 50–75 years for breast cancer

services, and aged 21–64 years for cervical cancer services; and under- or uninsured.

CDC proposes revisions to three of the previously approved information collection instruments:

Annual NBCCEDP Survey—This instrument collects program-level information annually to monitor recipients' challenges, external funding sources, partnerships, and EBI implementation. The survey has been revised to include new survey questions to improve data quality for items related to partnership activities and recipients' requirements for patients' payments towards screening services, as well as the removal of a COVID–19 related question.

Clinic-Level Data Collection Tool—This instrument collects clinic-level data at baseline and annually to assess health system, clinic, and patient population characteristics; monitoring and quality improvement activities; EBI implementation; and baseline or annual screening rates. This tool has been revised to remove COVID–19 related variables and update response options for the measures used to report breast and cervical cancer screening rates.

QPU—This instrument collects program-level data four times per year to monitor award spending, service delivery, staff vacancies, program challenges and successes, and TA needs. This instrument has been revised to include two optional open-ended items to allow recipients to provide context to reported service delivery and spending data only if needed.

CDC proposes continued use of the remaining two information collections; Service Delivery Project Worksheet and the MDEs, which have not been changed. To maximize consistency in our routine data collections for the current NBCCEDP funding cycle, CDC has not revised NBCCEDP information collections to align with the Department of Health and Human Services (HHS)' current best practices for demographic questions related to sexual orientation and gender identity (SOGI) and race and ethnicity (R/E) at this time. However, CDC plans to revise information collections that include demographic items to align with HHS' SOGI and R/E guidelines for the next funding cycle beginning in 2027.

The proposed information collections will allow CDC to better gauge progress in meeting NBCCEDP program goals and monitor implementation activities, evaluate outcomes, and identify awardee technical assistance needs. In addition, findings will inform program improvement and help identify successful activities that need to be maintained, replicated, or expanded.

OMB approval is requested for three years. CDC requests OMB approval for an estimated 1,162 annual burden hours. Participation is required for NBCCEDP awardees. There are no costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
NBCCEDP Awardees	Annual NBCCEDP Survey	71	1	46/60	54
	NBCCEDP Clinic-level Information Collection Instrument—Breast.	71	6	40/60	284
	NBCCEDP Clinic-level Information Collection Instrument—Cervical.	71	6	40/60	284
	Quarterly Program Update	71	4	22/60	151
	Service Delivery Projection Worksheet.	71	1	29/60	34
	MDEs	71	2	150/60	355
Total					1,162

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–22477 Filed 9–30–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day—24–24IW; Docket No. CDC–2024–0070]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Becton Dickinson BACTEC™ Blood Culture Media Bottles Shortage Impact Questionnaire, which will assess the impact of the Becton Dickinson (BD) BACTEC™ blood culture media bottles supply shortage on individual facilities and how CDC NHSN bloodstream infection surveillance might be affected.

DATES: CDC must receive written comments on or before December 2, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0070 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

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. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

National Healthcare Safety Network (NHSN) Becton Dickinson BACTEC™ Blood Culture Media Bottles Shortage Impact Questionnaire—New—National Center for Emerging and Zoonotic Infection Diseases (NCEZID), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Division of Healthcare Quality Promotion (DHQP), National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), Centers for Disease Control and Prevention (CDC) collects data from healthcare facilities in the National Healthcare Safety Network (NHSN) under OMB Control No. 0920–0666. NHSN provides facilities, health departments, states, regions, and the nation with data necessary to identify problem areas, measure the progress of prevention efforts, and ultimately eliminate healthcare-associated infections (HAIs) nationwide. NHSN also allows healthcare facilities to track blood safety errors and various HAI prevention practice methods such as healthcare personnel influenza vaccine status and corresponding infection control adherence rates. Enrollment in NHSN has continuously increased, with over 37,000 actively reporting healthcare facilities across the U.S. Of the total enrolled healthcare facilities, there are over 6,000 acute care facilities. NHSN currently has eight components, and the collection of information is authorized by the Public Health Service Act (42 U.S.C. 242b, 242k, and 242m (d)).

Data reported under NHSN's Patient Safety Component are used to determine the magnitude of the healthcare-associated adverse events and trends in the rates of the events, in the distribution of pathogens, and in the adherence to prevention practices. Data will help detect changes in the epidemiology of adverse events resulting from new medical therapies and changing patient risks. Additionally, reported data is being used to describe the epidemiology of antimicrobial use and resistance and to better understand the relationship of antimicrobial therapy to this rising problem.

NHSN's data is used to aid in the tracking of HAIs and guide infection prevention activities/practices that protect patients. The Centers for Medicare and Medicaid Services (CMS) and other payers use these data to determine incentives for performance at healthcare facilities across the US and surrounding territories, and members of the public may use some protected data to inform their selection among available providers. Each of these parties is dependent on the completeness and accuracy of the data. CDC and CMS work closely and are fully committed to ensuring complete and accurate reporting, which are critical for protecting patients and guiding national, state, and local prevention priorities.

The U.S. Food and Drug Administration (FDA) posted an announcement regarding interruptions in the supply of Becton Dickinson (BD) BACTEC (TM) blood culture media bottles because of recent supplier issues. The disruption in the supply is expected to impact patient diagnosis, follow-up patient management, and antimicrobial stewardship efforts. The FDA and other entities recommend that facilities, laboratories, and health care providers consider conservation strategies to prioritize the use of blood culture media bottles, preserving the supply for patients at highest risk. This information collection request includes a new data collection instrument that will assess the impact of the supply shortage on individual facilities and how CDC NHSN bloodstream infection surveillance might be affected. Facilities enrolled in the NHSN Patient Safety Component will be asked questions regarding the impact of the Becton Dickinson (BD) BACTEC (TM) blood culture media bottles for their facility. The questions will be collected electronically via the NHSN application.

CDC requests OMB approval for an estimated 2,334 annual burden hours. There are no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Infection Preventionist/Microbiologist	Blood Culture Bottle Shortage Questionnaire (Jul–Oct).	3,500	1	20/60	1,167
Infection Preventionist/Microbiologist	Blood Culture Bottle Shortage Questionnaire (Nov–Mar).	3,500	1	20/60	1,167

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Total					2,334

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–22475 Filed 9–30–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–24–24IV; Docket No. CDC–2024–0071]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a proposed information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled ''Comprehensive Evaluation of the Implementation and Uptake of the CDC Clinical Practice Guideline for Prescribing Opioids for Pain''. This data collection is designed to allow CDC to evaluate the 2022 CDC Clinical Practice Guidelines for opioid prescription practices.

DATES: CDC must receive written comments on or before December 2, 2024.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2024–0071 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, H 21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

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. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

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;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

Comprehensive Evaluation of the Implementation and Uptake of the CDC Clinical Practice Guideline for Prescribing Opioids for Pain—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Beginning in the 1990s, opioid prescribing rates for pain management steadily increased until 2010, remained steady until 2012, and have declined since then. The increase in opioid prescribing rates corresponded with increases in opioid-involved overdose deaths, which initially primarily involved prescription opioids (natural and semi-synthetic opioids and methadone). In response to this emerging crisis, CDC issued the CDC Guideline for Prescribing Opioids for Chronic Pain—United States, 2016 (2016 CDC Guideline). Implementing the 2016 CDC Guideline was associated with reductions in opioid prescribing and increases in use of non-opioid medications for pain. At the same time, laws and policies related to prescribing opioids were instituted that misapplied or were inconsistent with the 2016 CDC Guideline, potentially contributing to patient harm. In 2022, CDC released the CDC Clinical Practice Guideline for Prescribing Opioids for Pain—United States, 2022, which provided up to date evidence regarding pain management approaches and re-emphasizes the need for prescribers to be focused on patient-centered care to provide effective pain management. CDC is comprehensively evaluating the uptake, implementation, and outcomes of the 2022 CDC Clinical Practice Guideline on evidence-based care for pain management to understand its impact.

To meet CDC's goal for a rigorous, comprehensive evaluation, this collection is proposing a mixed-method quasi-experimental design with the following three aims to evaluate the 2022 CDC Clinical Practice Guideline:

- Aim 1: Dissemination—Assess CDC's efforts in disseminating the 2022 CDC Clinical Practice Guideline.
- Aim 2: Impact—Evaluate the impact of the 2022 CDC Clinical Practice Guideline through population-wide changes in prescribing practices for opioids and medications for opioid use disorder.
- Aim 3: Implementation—Evaluate the implementation of the 2022 CDC Clinical Practice Guideline from perspectives of patients, caregivers, clinicians; and leaders from health systems, payers, professional associations, and medical boards.

This evaluation will include systematic collection and analysis of a range of primary and secondary data sources. To answer the research questions, we will employ qualitative synthesis and analytic approaches, quantitative analyses, and various mixed-methods approaches. Primary data collection efforts include a web-based survey conducted among a national sample of clinicians, virtual interviews with clinicians, virtual interviews with dentists, virtual interviews with leaders from professional organizations, payers, medical boards, and health systems, and virtual focus groups with patients and caregivers.

The CDC will use this information collection to evaluate the dissemination, impact, and implementation of the 2022 CDC Clinical Practice Guideline to ensure that Americans have access to safer, effective ways of managing their pain. CDC requests OMB approval for an estimated 325 annual burden hours. There is no cost to respondents other than their time.

Estimated Annualized Burden Hours

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Clinicians	Clinician Survey	200	1	10/60	33
	Invitation	1,000	1	5/60	83
	Follow up Emails	1,000	1	5/60	83
	Clinician Interview	10	1	1	10
Dentists	Dentist Interview	2	1	1	2
Health System Leaders	Health System Leaders Interview	3	2	1	6
Payers	Payer Interview	3	2	1	6
Professional Association Leaders	Professional Association Leaders Interview.	3	2	1	6
Medical Board Leaders	Medical Board Leaders Interview	3	2	1	6
Patients	Patient Focus Groups	15	3	1	45
Caregivers	Caregiver Focus Groups	15	2	1	30
Total					325

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–22474 Filed 9–30–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–24–24AL]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Occupational Exposures to Surgical Smoke in Veterinary Personnel'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on November 3, 2023 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Occupational Exposures to Surgical Smoke in Veterinary Personnel—New—National Institute for Occupational

Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Surgical smoke produced during tissue cutting and cauterizing tissues and blood vessels generates hazardous gaseous compounds and aerosols that are associated with cancer and respiratory irritation; however, no research has characterized surgical smoke generated from animal tissue in clinical veterinary settings. Surgical smoke exposure is an emerging concern in human operating rooms, and several states have either passed or are considering bills requiring surgical smoke evacuation systems in human operating rooms to mitigate this occupational hazard. Surgical suites in veterinary clinics are often multiple bay suites or have less effective ventilation systems than human operating rooms, potentially leading to higher exposure levels, yet no research has examined barriers and aids to the use of surgical smoke evacuation systems among veterinary medicine/animal care (VM/AC) personnel.

The proposed project will characterize occupational exposure to surgical smoke and related respiratory health effects in clinical veterinary settings. Data will be used to examine: (1) work-related factors that contribute to exposure to surgical smoke in clinical veterinary settings; (2) relationships between surgical smoke exposure in clinical veterinary settings and respiratory health; and (3) barriers and aids to implementing surgical smoke extraction systems that reduce occupational exposures to surgical smoke. Findings from this study will help to provide guidance on engineering controls to improve air quality in VM/AC personnel's work environment by reducing exposure to surgical smoke.

Three veterinary teaching hospitals and a national network of community veterinary clinics have been recruited to participate in this research. VM/AC personnel at collaborating field study sites will have the opportunity to voluntarily express interest in participating by completing a brief expression of interest form. Study participants will complete: (1) a baseline questionnaire that collects data on demographics, work history, job tasks, exposures to respiratory hazards (including surgical smoke), use of personal protective equipment, workplace safety climate, and respiratory health and symptoms; and (2) a post-shift questionnaire assessing acute respiratory symptoms and job tasks during the work shift.

This is a new data collection, with approval requested for three years. CDC requests OMB approval for an estimated 107 annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
VM/AC personnel	Expression of Interest Form	50	1	3/60
VM/AC personnel	Informed Consent	50	1	15/60
VM/AC personnel	Baseline Questionnaire	50	1	28/60
VM/AC personnel	Post-shift Questionnaire	50	10	8/60

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–22471 Filed 9–30–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–24–0950]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''National Health and Nutrition Examination Survey (NHANES)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on May 13, 2024 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

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

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

National Health and Nutrition Examination Survey (NHANES) (OMB Control No. 0920–0950, Exp. 04/30/

2025)—Revision — National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k) authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, collect statistics on subjects in the United States, such as the extent and nature of illness and disability of the population; environment, social, and other health hazards; determinants of health; health resources; and utilization of healthcare. The National Health and Nutrition Examination Survey (NHANES) has been conducted periodically between 1970 and 1994, and continuously since 1999 by the National Center for Health Statistics, CDC.

NHANES produces descriptive statistics, which measure the health and nutritional status of the general population. With personal interviews, physical examinations, and laboratory assessments, NHANES studies the relationship between diet, nutrition, and health in a representative sample of the United States. NHANES monitors the prevalence of chronic conditions and risk factors and is used to produce national reference data on height, weight, and nutrient levels in the blood. Results from more recent NHANES can be compared to findings reported from previous surveys to monitor changes in the health of the U.S. population over time. In 2025–2026, the program is not considering any substantive changes to NHANES content or procedures. As in previous years, the base sample will remain at approximately 5,000 individuals interviewed and examined, annually. Children 0–17 years of age, persons 65 years of age or older, and non-Hispanic Black persons will be oversampled in the 2025–2026 survey. NCHS collects personally identifiable information (PII). Participant level data items will include basic demographic information, name, address, social security number, Medicare number and participant health information to allow for linkages to other data sources such as the National Death Index and data from the Centers for Medicare and Medicaid Services.

A variety of agencies sponsor data collection components on NHANES. In the 2025–2026 clearance proposal, the Program modified, added, or removed various components that were included in the August 2021–August 2023 NHANES to update and modernize processes for data collection. NHANES staff conducted a thorough review of the survey participant and household questionnaire content and made changes to focus on retaining questions that are to be used in combination with specific exam or lab data collected in the survey, as independent prevalence estimates, or as covariates in statistical analyses (*e.g.,* sociodemographic characteristics). Further review of all data collection instruments was done to update wording, update age restrictions for the respondent universe, align wording across instruments, eliminate duplicate questions, improve interview flow, and reduce respondent burden.

With the construction of a new fleet of five mobile examination centers (MECs) with updated designs, the 2025–2026 exam components will include post consent-questions, anthropometry, oscillometer measurements, venipuncture, urine collection, MEC CAPI and ACASI questions, body composition, respiratory health, audiometry, visual acuity and ophthalmology, oral health, HPV oral rinse and DNA genital swab collection, and water fluoride testing. Liver elastography, urine testing for several sexually transmitted infections, serology testing for HPV and CMV antibodies, and MEC follow-up questionnaires were dropped.

First Dietary Recall interviews, the Flexible Consumer Behavior Survey, and the Second Dietary Recall interviews will be conducted via telephone either before or after the MEC visit, which is a new approach for the 2025–2026 survey. If the participant does not schedule their dietary interviews at the end of their household interview, the MEC staff will attempt to schedule these appointments at the end of the examination. This option provides more flexibility to complete the interviews, which may improve completion rates. Program staff will monitor response rates closely to assess whether scheduling dietary interviews after the household interviews has an impact on response rates for dietary interviews and/or MEC exams.

Although a few laboratory tests are new or have been removed in 2025–2026, most remain but have been modified. Predominantly, modifications are the result of adjustments in age eligibility. Several laboratory tests that have not been modified include CBC, hemoglobin variants, HIV, cadmium, and lead. RBC folate forms, LDC cholesterol, and chlamydia are examples of tests that have been removed for 2025–2026. New laboratory tests include B vitamins, choline and metabolites, and aldosterone. The biospecimens collected for laboratory tests include urine and blood. Serum, plasma, DNA, and urine specimens will be stored for future testing if the participant provides consent.

NHANES may conduct developmental projects during NHANES 2025–2026, with a focus on planning for NHANES 2027 and beyond. These may include activities such as tests of new equipment, crossover studies between current and proposed methods, tests of different study modes, settings or technology, outreach materials, incentive strategies, sample storage and processing or sample designs.

Burden for individuals in 2025–2026 NHANES will vary based on their level of participation. For example, infants and children tend to have shorter interviews and exams than adults. This is because young people may have fewer health conditions or medications to report so their interviews take less time or because certain exams are only conducted on survey participants 18 and older, etc. In addition, adults often serve as proxy respondents for young people in their families.

Participation in NHANES is voluntary and confidential. The Program is requesting a three-year approval, with 36,540 annualized hours of burden in this clearance proposal.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Individuals in households	Household Screener Questionnaire	6,398	1	7/60
Individuals in households	Survey Participant Questionnaire; & Household Questionnaire.	5,882	1	1
Individuals in households	MEC Examination & Interview Data Collection Forms	5,000	1	2

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Individuals in households	Day1 Dietary Instrument; MEC Dietary Recruitment Scheduling Instrument; Dietary Front-End Instrument; Dietary Incentives and Scheduling Instrument; MEC Dietary Reminder Call-in Instrument; & Flexible Consumer Behavior Survey (FCBS) Instrument.	5,882	1	1
Individuals in households	Day2 Dietary Instrument	5,882	1	36/60
Individuals in households	Developmental Projects & Special Studies	3,500	1	3

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2024–22473 Filed 9–30–24; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10593]

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 December 2, 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–10539 Medicare and Medicaid Programs: Home Health Facilities (HHAs) and Supporting Regulations

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:* Medicare and Medicaid Programs: Home Health Facilities (HHAs) and Supporting Regulations*; Use:* Home health services are covered for the elderly and disabled under the Hospital Insurance (Part A) and Supplemental Medical Insurance (Part B) benefits of the Medicare program and are described in section 1861(m) of the Social Security Act (the Act) (42 U.S.C. 1395x). These services must be furnished by, or under arrangement with, an HHA that participates in the Medicare program, and be provided on a visiting basis in the beneficiary's home. They may include the following:

- Part-time or intermittent skilled nursing care furnished by or under the supervision of a registered nurse.
- Physical therapy, speech-language pathology, or occupational therapy.
- Medical social services under the direction of a physician.
- Part-time or intermittent home health aide services.
- Medical supplies (other than drugs and biologicals) and durable medical equipment.
- Services of interns and residents if the HHA is owned by or affiliated with

a hospital that has an approved medical education program.

• Services at hospitals, Skilled Nursing Facilities (SNFs), or rehabilitation centers when they involve equipment too cumbersome to bring to the home.

Under the authority of sections 1861(o), 1871 and 1891 of the Act, the Secretary has established in regulations the requirements that an HHA must meet to participate in the Medicare program. These requirements are set forth in 42 CFR part 484 as Conditions of Participation for Home Health Agencies. The CoPs apply to an HHA as an entity as well as the services furnished to each individual under the care of the HHA, unless a condition is specifically limited to Medicare beneficiaries. Under section 1891(b) of the Act, the Secretary is responsible for assuring that the CoPs, and their enforcement, are adequate to protect the health and safety of individuals under the care of an HHA and to promote the effective and efficient use of Medicare funds. To implement this requirement, State survey agencies generally conduct surveys of HHAs to determine whether they are complying with the CoPs. *Form Number:* CMS–10539 (OMB Control Number: 0938–1299); *Frequency:* Annually; *Affected Public:* Private Sector (Business or other for-profit, and not-for-profit institutions); *Number of Respondents:* 20,765; *Number of Responses:* 12,300,588 *Total Annual Hours:* 870,000. (For policy questions regarding this collection contact Claudia Molinar at *claudia.molinar@cms.hhs.gov.*)

William N. Parham, III,

Director, Division of Information Collections and Regulatory Impacts, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2024–22536 Filed 9–30–24; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2024–N–1382]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Electronic User Fee Payment Request Forms

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments (including recommendations) on the collection of information by October 31, 2024.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be submitted to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. The OMB control number for this information collection is 0910–0805. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Electronic User Fee Payment Request Forms—Form FDA 3913 and Form FDA 3914

OMB Control Number 0910–0805—Extension

This information collection supports FDA user fee programs. Form FDA 3913, User Fee Payment Refund Request, is designed to provide the minimum necessary information for FDA to review and process a user fee payment refund. The information collected includes the organization, contact, and payment information. The information is used to determine the reason for the refund, the refund amount, and who to contact if there are any questions regarding the refund request. A submission of the User Fee Payment Refund Request form does not guarantee that a refund will be issued. FDA estimates an average of 0.40 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. The estimated hours are based on past FDA experience with the user fee payment refund request.

In fiscal year 2023, approximately 1,856 user fee refunds were processed for cover sheets and invoices including 2 for Animal Drug User Fees, 2 for Animal Generic Drug User Fees, 3 for Biosimilar Drug User Fees, 1 for Color Additive Certification Fees, 1 for Compounding Quality fees, 32 for Export Certificate Program Fees, 7 for Freedom of Information Act requests, 94 for Generic Drug User Fees, 730 for Medical Device User Fees, 219 for Medical Device Federal Unified Registration and Listing fees, 666 for Mammography inspection fees, 19 for Over-The-Counter Monograph Drug User Fees, 77 for Prescription Drug User Fees, and 3 for Tobacco product fees.

Form FDA 3914, User Fee Payment Transfer Request, is designed to provide the minimum necessary information for FDA to review and process a user fee payment transfer request. The information collected includes payment and organization information. The information is used to determine the reason for the transfer, how the transfer should be performed, and who to contact if there are any questions regarding the transfer request. A submission of the User Fee Payment Transfer Request form does not guarantee that a transfer will be performed. FDA estimates an average of 0.25 hours per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. FDA estimated hours are based on past FDA experience with the user fee payment transfer requests.

In fiscal year 2023, approximately 86 user fee payment transfers were processed for cover sheets and invoices including 0 for Animal Drug User Fees, 0 for Animal Generic Drug User Fees, 1 for Biosimilar Drug User Fees, 2 for Compounding Quality fees, 4 for Export Certificate Program Fees, 20 for Generic Drug User Fees, 6 for Medical Device User Fees, 37 for Medical Device Federal Unified Registration and Listing fees, 8 for Mammography inspection fees, 8 for Over-The-Counter Monograph Drug User Fees, 0 for Prescription Drug User Fees, and 0 for Tobacco product fees.

Respondents for the electronic request forms include domestic and foreign firms (including pharmaceutical, biological, medical device firms, etc.). Specifically, refund request forms target respondents who submitted a duplicate payment or overpayment for a user fee cover sheet or invoice. Respondents may also include firms that withdrew an application or submission. Transfer request forms target respondents who submitted payment for a user fee cover sheet or invoice and need that payment

to be re-applied to another cover sheet or invoice (transfer of funds).

The electronic user fee payment request forms streamline the refund and transfer processes, facilitate processing, and improve the tracking of refund or transfer requests. The burden for this collection of information is the same for all customers (small and large organizations). The information being requested or required has been held to the absolute minimum required for the intended use of the data. Respondents are able to request a user fee payment refund or transfer online at *https://www.fda.gov/forindustry/userfees/default.htm.* This electronic submission is intended to reduce the burden for customers to submit a user fee payment refund and transfer request.

In the **Federal Register** of April 26, 2024 (89 FR 32445), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1] [2]

FDA form No.	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
User Fee Payment Refund Request—Form FDA 3913.	1,856	1	1,856	0.40 (24 minutes)	742
User Fee Payment Transfer Request—Form FDA 3914.	86	1	86	0.25 (15 minutes)	22
Total	.....	.....	.....	.....	764

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Numbers have been rounded.

Our estimated burden for the information collection reflects an overall increase of 525 hours and a corresponding increase of 1,274 responses. We attribute this adjustment to an increase in the number of submissions we received over the last few years.

Dated: September 25, 2024.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2024–22443 Filed 9–30–24; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Solicitation of Written Comments on Proposed Healthy People 2030 Objectives

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of the Assistant Secretary of Health, Office of Disease Prevention and Health Promotion.

ACTION: Notice.

SUMMARY: The U.S. Department of Health and Human Services (HHS) solicits written comments from the public on 12 new objectives proposed to be added to Healthy People 2030, and written comments from the public proposing additional new core, developmental, or research objectives or topics to be included in Healthy People 2030. Public comment informed the development of Healthy People 2030. HHS will provide opportunities for public input periodically throughout the decade to ensure Healthy People 2030 reflects current public health priorities and public input. The updated set of Healthy People 2030 objectives and topics will be incorporated on *https://health.gov/healthypeople.* This updated set will reflect further review and deliberation by federal Healthy People topic area workgroups, the Federal Interagency Workgroup on Healthy People 2030, and other federal subject matter experts.

DATES: Written comments will be accepted through 11:59 p.m. ET, October 31, 2024.

ADDRESSES: Written comments should be submitted by email to *HP2030Comment@hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Erik Orta, Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services, 1101 Wootton Parkway, Suite 420, Rockville, MD 20852; Phone: 240–268–0823; Email: *HP2030@hhs.gov.*

SUPPLEMENTARY INFORMATION: Since 1980, Healthy People has provided a comprehensive set of national health promotion and disease prevention objectives with 10-year targets aimed at improving the health of all. Healthy People 2030 objectives present a picture of the nation's health at the beginning of the decade, establish national goals and targets to be achieved by the year 2030, and monitor progress over time. The U.S. Department of Health and Human Services (HHS) is soliciting the submission of written comments regarding 12 new objectives proposed to be added to the current set of Healthy People 2030 objectives. The public is also invited to submit proposals for additional new core, developmental, or research objectives that meet the criteria outlined below.

Healthy People 2030 is the product of an extensive collaborative process that relies on input from a diverse array of individuals and organizations, both within and outside the federal government, with a common interest in improving the nation's health. Public comments were a cornerstone of Healthy People 2030's development. During the first phase of planning for Healthy People 2030, HHS asked for the public's comments on the initiative's vision, mission, and overarching goals. Those comments helped set the framework for Healthy People 2030. The public was also invited to submit comments on proposed Healthy People 2030 objectives, which helped shape the current set of Healthy People 2030 objectives.

The public now is invited to comment on 12 new objectives proposed to be added to Healthy People 2030. These new objectives were developed by Healthy People topic area workgroups led by various agencies within the Federal Government. They have been reviewed by the Federal Interagency Workgroup on Healthy People 2030 and are presented now for the public's review and comment. They are:

1. *CKD–NEW–11:* Increase the proportion of people with chronic kidney disease and diabetes who receive glucose-lowering medications based on the most recent guidelines. This objective is new to Healthy People 2030. Data source: National Health and Nutrition Examination Survey (NHANES).

2. *CKD–NEW–12:* Increase the proportion of people with chronic kidney disease and severe albuminuria who receive glucose-lowering medications based on the most recent guidelines. Data source: National Health and Nutrition Examination Survey (NHANES).

3. *ECBP–NEW–02:* Increase the proportion of medical schools that include environmental health content in a required learning experience. Data source: American Association of Colleges of Osteopathic Medicine (AACOM) and Association of American Medical Colleges (AAMC) (2022 Annual Osteopathic Medical School Questionnaire and Liaison Committee on Medical Education (LCME); Annual Medical School Questionnaire Part II).

4. *ECBP–NEW–03:* Increase the proportion of undergraduate nursing and graduate nurse practitioner training programs that include environmental health content in a required learning experience. Data source: American Association of Colleges of Nursing (AACN) and National Organization of Nurse Practitioner Faculties (NONPF) (2022 American Association of Colleges of Nursing Healthy People 2030 Curriculum Survey; 2022 National Organization of Nurse Practitioner Faculties Healthy People 2030 Curriculum Survey).

5. *ECBP–NEW–04:* Increase the proportion of physician assistant (PA) training programs that include environmental health content in a required learning experience. Data source: Physician Assistant Education Association (PAEA) (2022 Physician Assistant Education Association Healthy People 2030 Survey).

6. *ECBP–NEW–05:* Increase the proportion of colleges and schools of pharmacy with Doctor of Pharmacy (PharmD) degree programs that include environmental health content in a required learning experience. Data source: American Association of Colleges of Pharmacy (AACP) (2022 American Association of Colleges and Pharmacy Healthy People 2030 Survey).

7. *ECBP–NEW–06:* Increase the proportion of colleges and schools of dentistry with Doctor of Dental Surgery (DDS) and/or Doctor of Dental Medicine (DMD) degree programs that include environmental health content in a required learning experience. Data source: American Dental Education Association (ADEA) (2022 ADEA Healthy People 2030 Survey).

8. *EH–NEW–12:* Reduce deaths related to heat. This objective is currently a development objective, EH–D02. Data source: National Vital Statistics System—Mortality.

9. *HOSCD–NEW–13:* Increase the proportion of adults with communication disorders of voice, swallowing, speech, or language who have seen a health care specialist for evaluation or treatment in the past 12 months. Data source: National Health Interview Survey (NHIS), CDC/NCHS.

10. *IID–NEW–18:* Increase the proportion of pregnant women who receive 1 dose of the tetanus-diphtheria-acellular pertussis (Tdap) vaccine during pregnancy. Data source: National Health Interview Survey (NHIS), CDC/NCHS.

11. *IID–NEW–19:* Increase the proportion of adults who receive the recommended age-appropriate vaccine. Data source: National Health Interview Survey (NHIS), CDC/NCHS.

12. *MICH–NEW–21:* Reduce the rate of hypertension in pregnancy (preexisting and pregnancy-associated hypertension) among delivery hospitalizations. Data source: Healthcare Cost and Utilization Project—National (Nationwide) Inpatient Sample (HCUP–NIS), Agency for Healthcare Research and Quality (AHRQ).

The public also is invited to provide comment on the current Healthy People 2030 objectives and propose additional core, developmental, or research objectives for consideration that address critical public health issues. Proposed new objectives must meet all the objective selection criteria (see below). The public is also invited to propose new topics to be considered for inclusion in Healthy People 2030.

Objective Selection Criteria

Core Objectives

Core objectives must meet the following five criteria to be included in Healthy People 2030. Core objectives should (1) have a reliable, nationally representative data source with baseline data no older than 2015; (2) have at least two additional data points beyond the baseline during the decade; (3) be of national importance; (4) have effective, evidence-based interventions available to achieve the objective; and (5) have data to help address disparities and achieve health equity.

Developmental Objectives

Developmental objectives will have the following characteristics: (1) represent high priority issues; (2) do not have reliable baseline data yet; and (3) have evidence-based interventions available.

Research Objectives

Research objectives will have the following characteristics: (1) represent key opportunities to make progress in areas with limited prior research, a high health or economic burden, or significant disparities between population groups; (2) may or may not have reliable baseline data; and (3) do not have evidence-based interventions available.

Written comments and evidence-based information should be submitted by email to *HP2030Comment@hhs.gov* by 11:59 p.m. ET on October 31, 2024. Comments received in response to this notice will be reviewed and considered by the Healthy People topic area workgroups, Federal Interagency Workgroup on Healthy People 2030, and other federal subject matter experts.

Paul Reed,

Deputy Assistant Secretary for Health, Office of Disease Prevention and Health Promotion.

[FR Doc. 2024–22519 Filed 9–30–24; 8:45 am]

BILLING CODE 4150–32–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, M.D. 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., M.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, 31 Center Drive, Bethesda, M.D. 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., M.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) 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 26, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22529 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Literature Selection Technical Review Committee, October 24–25, 2024, 8:30 a.m. to 5 p.m., which was published in the **Federal Register** on July 23, 2024, 89 FR 59744.

This meeting will be amended to change the meeting time from 8:30 a.m. to 5 p.m. to 10 a.m. to 4 p.m. for both days. An open session is added from 10–10:30 a.m. on October 25, 2024.

The open session of the meeting will be virtual. Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice no later than 7 days prior to the meeting. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person. Individuals who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Dianne Babski, Associate Director, Division of Library Operations, National Library of Medicine at *babskid@mail.nih.gov*. The open session will be videocast and can be accessed from the NIH Videocast website at *https://videocast.nih.gov/*.

Dated: September 25, 2024.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22436 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be access from the NIH Videocasting and Podcase website *http://videocast.nih.gov/* or *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council.*

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: October 29, 2024.

Open: 8:00 a.m. to 9:00 a.m., 3:00 p.m. to 5:00 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Meeting Format: In Person.

Virtual Access: The meeting will be videocast and can be accessed from the NIH Videocast. *http://videocast.nih.gov/or https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council.* Please note, the link to the videocast meeting will be posted within a week of the meeting date.

Contact Person: Charisee Lamar, Ph.D., M.P.H., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 206–Q, Bethesda, MD 20892–7924, (301) 827–5517, Email: *lamarc@mail.nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on the notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 26, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22523 Filed 9–30–24; 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: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Skeletal Biology Development and Disease Study Section.

Date: October 24–25, 2024.

Time: 8:30 a.m. to 9:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meeting.

Contact Person: Vanessa Dawn Sherk, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 801C, Bethesda, MD 20892, (301) 594–3218, *sherkv2@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Prevention 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: In Person and Virtual Meeting.

Contact Person: Byung Min Chung, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–4056, *justin.chung@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Transplantation, Immunology and Autoimmunity.

Date: October 24, 2024.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Philip Owens, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–7394, *owensp2@csr.nih.gov.*

Name of Committee: Applied Therapeutics for Cancer Integrated Review Group; Radiation Therapeutics and Biology Study Section.

Date: October 28–29, 2024.

Time: 8:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Motor Function, Speech and Rehabilitation Study Section.

Date: October 28–29, 2024.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meetings.

Contact Person: Stephanie Nagle Emmens, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–6604, *nagleemmenssc@csr.nih.gov.*

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Viral Pathogenesis and Immunity Study Section.

Date: October 28–29, 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: In Person and Virtual Meeting.

Contact Person: Neerja Kaushik-Basu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301)435–1742, *kaushikbasun@csr.nih.gov.*

Name of Committee: Emerging Technologies and Training Neurosciences Integrated Review Group; Bioengineering and Tissue Engineering for Neuroscience Study Section.

Date: October 28–29, 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: Tina Tze-Tsang Tang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Suite 3030, Bethesda, MD 20817, (301) 435–4436, *tangt@mail.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pregnancy and Neonatology Study Section.

Date: October 28–29, 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: Andrew Maxwell Wolfe, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, (301) 402–3019, *andrew.wolfe@nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Therapeutic Immune Regulation Study Section.

Date: October 28–29, 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: Yue Wu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 803C, Bethesda, MD 20892, (301) 867–5309, *wuy25@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 25, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22516 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be access from the NIH Videocasting and Podcase website *http://videocast.nih.gov/* or *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council.*

The meeting will be closed to the public in accordance with the

provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Advisory Council.

Date: October 30, 2024.

Closed: 8:00 a.m. to 8:45 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Open: 8:45 a.m. to 5:00 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Meeting Format: In Person.

Virtual Access: The meeting will be videocast and can be accessed from the NIH Videocast. *http://videocast.nih.gov/* or *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council*. Please note, the link to the videocast meeting will be posted within a week of the meeting date.

Contact Person: Charisee Lamar, Ph.D., M.P.H., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 206–Q, Bethesda, MD 20892–7924, (301) 827–5517, email: *lamarc@mail.nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on the notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://www.nhlbi.nih.gov/about/advisory-and-peer-review-committees/advisory-council* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: September 26, 2024.

Bruce A. George,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22522 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; 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 Center for Complementary and Integrative Health Special Emphasis Panel; Feasibility Trials of the NIH Music-based Interventions Toolkit for Brain Disorders of Aging (R34 Clinical Trial Required).

Date: October 15, 2024.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Center for Complementary and Integrative, Democracy II, 6707 Democracy Blvd., Bethesda, MD 20892.

Contact Person: BAILA S Hall, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, (301) 443–9285, *baila.hall@nih.gov*.

Contact Person: Jessica Marie McKlveen, Ph.D., Scientific Review Officer, Director, Office of Scientific Review, Division of Extramural Activities, NCCIH, NIH, 6707 Democracy Boulevard, Suite 401, Bethesda, MD 20817, *jessica.mcklveen@nih.gov*.

Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: September 25, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22511 Filed 9–30–24; 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: Oncology 1—Basic Translational Integrated Review Group; Biochemical and Cellular Oncogenesis Study Section.

Date: October 29–30, 2024.

Time: 8:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW, Washington, DC 20015.

Meeting Format: In Person.

Contact Person: Jian Cao, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–5902, *caojn@csr.nih.gov*.

Name of Committee: Aging and Neurodegeneration Integrated Review Group; Chronic Dysfunction and Integrative Neurodegeneration Study Section.

Date: October 29–30, 2024.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Canopy by Hilton, 940 Rose Avenue, North Bethesda, MD 20852.

Meeting Format: In Person.

Contact Person: Bernard Rajeev Srambical Wilfred, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, *bernard.srambicalwilfred@nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Prokaryotic Cell and Molecular Biology Study Section.
Date: October 29–30, 2024.
Time: 8:30 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue NW, Washington, DC 20037.
Meeting Format: In Person.
Contact Person: Rebecca Catherine Burgess, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–8034, *rebecca.burgess@nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group; Integrative Vascular Physiology and Pathology Study Section.
Date: October 29–30, 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: Bukhtiar H. Shah, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4120, MSC, 7802 Bethesda, MD 20892, (301) 806–7314, *shahb@csr.nih.gov*.

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Oral, Dental and Craniofacial Sciences Study Section.
Date: October 29–30, 2024.
Time: 9:00 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency, Bethesda One, Bethesda Metro Center, Bethesda, MD 20814.
Meeting Format: In Person.
Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC, 7814 Bethesda, MD 20892, (301) 435–1781, *liuyh@csr.nih.gov*.

Name of Committee: Social and Community Influences on Health Integrated Review Group; Social Psychology, Personality and Interpersonal Processes Study Section.
Date: October 29–30, 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: Joshua J. Matacotta, PSYD, Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–7498, *josh.matacotta@nih.gov*.

Name of Committee: Aging and Neurodegeneration Integrated Review Group; Aging Systems and Geriatrics Study Section.
Date: October 29–30, 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: Roger Alan Bannister, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1010–D, Bethesda, MD 20892, (301) 435–1042, *bannisterra@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Instrumentation and Systems Development Study Section.
Date: October 29–30, 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: Zachary Stephen Bailey, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–4691, *zach.bailey@nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Population based Research in Infectious Disease Study Section.
Date: October 29–30, 2024.
Time: 9:30 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC, 7770 Bethesda, MD 20892, (301) 257–2638, *steeleln@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Pathophysiology of Obesity and Metabolic Disease Study Section.
Date: October 29–30, 2024.
Time: 10:00 a.m. to 6:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.
Meeting Format: Virtual Meeting.
Contact Person: Heather Marie Brockway, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 813H, Bethesda, MD 20892, (301) 594–5228, *brockwayhm@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.
Date: October 29–30, 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: Guillermo Andres Bermejo, Ph.D., Scientific Review Officer, The Center for Scientific Review, The National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–5742, *bermejog@mail.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 25, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22439 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, section 102–3.65(a), notice is hereby given that the Charter for the Fogarty International Center Advisory Board was renewed for an additional two-year period on August 31, 2024.

It is determined that the FICAB is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

Inquiries may be directed to Claire Harris, Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail Stop Code 4875), Telephone (301) 496–2123, or *harriscl@mail.nih.gov.*

Dated: September 26, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22530 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Partially Closed Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, National Cancer Institute.

The meeting will be partially open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The open session will be videocast and can be accessed from the NIH Videocasting and Podcasting website (*http://videocast.nih.gov/*).

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Cancer Institute.

Date: November 4, 2024.

Open: 10:00 a.m. to 10:30 a.m.

Agenda: Remarks from the NCI Director.

Closed: 10:30 a.m. to 4:40 p.m.

Agenda: Personnel qualifications and performance, and competence of individual investigators.

Address: National Institutes of Health, Building 31, C Wing, 6th Floor, Conference Room C, 9000 Rockville Pike, Bethesda, MD 20892 (In-Person and Virtual Meeting).

Contact Person: Brian E. Wojcik, Ph.D., Senior Review Administrator, Institute Review Office, Office of the Director, National Cancer Institute, 9609 Medical Center Drive, Room 3W414, Bethesda, MD 20892, 240–276–5665, *wojcikb@mail.nih.gov*.

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.

In the interest of security, NIH has procedures at *https://www.nih.gov/about-nih/visitor-information/campus-access-security* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://deainfo.nci.nih.gov/advisory/bsc/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 25, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22437 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 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 Biomedical Imaging and Bioengineering Special Emphasis Panel; Career Awards (Ks) and Conference Support (R13) Review.

Date: November 7, 2024.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Democracy II, Suite 200, 6707 Democracy Blvd., Bethesda, MD 20817.

Meeting Format: Virtual Meeting.

Contact Person: Alexander O. Komendantov, MS, Ph.D., Scientific Review Officer, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health, 6707 Democracy Blvd., Bethesda, MD 20892, (301) 451–3397, *alexander.komendantov@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, National Institute of Biomedical Imaging and Bioengineering, National Institutes of Health.)

Dated: September 25, 2024.

Victoria E. Townsend,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22510 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Frederick National Laboratory Advisory Committee to the National Cancer Institute.

The meeting will be held virtually and is open to the public. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations to view the meeting, should notify the Contact Person listed below in advance of the meeting. The meeting can be accessed from the NIH Videocast at the following link: *https://videocast.nih.gov/*.

Name of Committee: Frederick National Laboratory Advisory Committee to the National Cancer Institute.

Date: October 23, 2024.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: On going and new activities at the Frederick National Laboratory for Cancer Research.

Place: NCI Shady Grove Conference Center, 9609 Medical Center Drive, Rockville, MD 20850 (Virtual Meeting).

Contact Person: Christopher D. Kane, Ph.D., Health Science Administrator and Program Officer, Office of Scientific Operations, Frederick Office of Scientific Operations, National Cancer Institute, NIH, 1050 Boyles Street, Building 427, Room 4, Frederick, MD 20872, *christopher.kane@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: FNLAC: *https://deainfo.nci.nih.gov/advisory/fac/fac.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: September 25, 2024.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22438 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA–L conflict SEP.

Date: November 5, 2024.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sudhirkumar U. Yanpallewar, M.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *sudhirkumar.yanpallewar@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Mechanism for Time-Sensitive Drug Abuse Research.

Date: November 12, 2024.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sudhirkumar U. Yanpallewar, M.D., Scientific Review Officer, Scientific Review Branch, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 443–4577, *sudhirkumar.yanpallewar@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: September 26, 2024.

Lauren A. Fleck,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2024–22526 Filed 9–30–24; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting for the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC)

AGENCY: Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Secretary of Health and Human Services announces a meeting of the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC).

The meeting will provide information on federal efforts related to serious mental illness (SMI) and serious emotional disturbance (SED); and Report Outs from Focus Area 1—Data and Evaluation; Focus Area 2—Access and Engagement; Focus Area 3—Treatment and Recovery; Focus Area 4—Criminal Justice, and Focus Area 5—Finance; and updates on SAMHSA's initiatives.

DATES: October 29, 2024, 9:00 a.m. to 4:00 p.m. (EDT)/Open.

ADDRESSES: The meeting is open to the public and can be accessed virtually only by accessing: *https://www.zoomgov.com/j/1604912525?pwd=XrfbvgFJM7BnfEq1xJIHRgiIsCKaEF.1* or by dialing 646–828–7666, webinar ID: 160 491 2525, passcode: 689916. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at *https://www.samhsa.gov/about-us/advisory-councils/meetings.*

FOR FURTHER INFORMATION CONTACT: Pamela Foote, ISMICC Designated Federal Officer, SAMHSA, 5600 Fishers Lane, Rockville, MD 20857; telephone: 240–276–1279; email: *pamela.foote@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The ISMICC was established on March 15, 2017, in accordance with section 6031 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to report to the Secretary, Congress, and any other relevant federal department or agency on advances in SMI and SED, research related to the prevention of, diagnosis of, intervention in, and treatment and recovery of SMIs, SEDs, and advances in access to services and supports for adults with SMI or children with SED. In addition, the ISMICC will evaluate the effect federal programs related to SMI and SED have on public health, including public health outcomes such as: (A) rates of suicide, suicide attempts, incidence and prevalence of SMIs, SEDs, and substance use disorders, overdose, overdose deaths, emergency hospitalizations, emergency room boarding, preventable emergency room visits, interaction with the criminal justice system, homelessness, and unemployment; (B) increased rates of employment and enrollment in educational and vocational programs; (C) quality of mental and substance use disorders treatment services; or (D) any other criteria determined by the Secretary. Finally, the ISMICC will make specific recommendations for actions that agencies can take to better coordinate the administration of mental health services for adults with SMI or children with SED. Not later than one (1) year after the date of enactment of the 21st Century Cures Act, and five (5) years after such date of enactment, the ISMICC shall submit a report to Congress and any other relevant federal department or agency.

II. Membership

This ISMICC consists of federal members listed below or their designees, and non-federal public members.

Federal Membership: Members include, The Secretary of Health and Human Services; The Assistant Secretary for Mental Health and Substance Use; The Attorney General; The Secretary of the Department of Veterans Affairs; The Secretary of the Department of Defense; The Secretary of the Department of Housing and Urban

Development; The Secretary of the Department of Education; The Secretary of the Department of Labor; The Administrator of the Centers for Medicare and Medicaid Services; the Administrator of the Administration for Community Living, and The Commissioner of the Social Security Administration.

Non-Federal Membership: Members include, not less than 14 non-federal public members appointed by the Secretary, representing psychologists, psychiatrists, social workers, peer support specialists, and other providers, patients, family of patients, law enforcement, the judiciary, and leading research, advocacy, or service organizations.

The ISMICC is required to meet at least twice per year.

To attend virtually, submit written or brief oral comments, or request special accommodation for persons with disabilities, contact Pamela Foote. Individuals can also register at *https://snacregister.samhsa.gov/*.

The public comment section will be scheduled at the conclusion of the meeting. Individuals interested in submitting a comment, must notify Pamela Foote on or before October 18, 2024, via email to: *Pamela.Foote@samhsa.hhs.gov.*

Up to three minutes will be allotted for each approved public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official record of the meeting.

Substantive meeting information and a roster of Committee members is available at the Committee's website: *https://www.samhsa.gov/about-us/advisory-councils/ismicc*.

Dated: September 26, 2024.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2024–22545 Filed 9–30–24; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine and Oral Fluid Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies Federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITFs) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

FOR FURTHER INFORMATION CONTACT: Anastasia Flanagan, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N06B, Rockville, Maryland 20857; 240–276–2600 (voice); *Anastasia.Flanagan@samhsa.hhs.gov* (email).

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) publishes a notice listing all HHS-certified laboratories and Instrumented Initial Testing Facilities (IITFs) in the **Federal Register** during the first week of each month, in accordance with section 9.19 of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines) using Urine and Section 9.17 of the Mandatory Guidelines using Oral Fluid. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *https://www.samhsa.gov/workplace/drug-testing-resources/certified-lab-list.*

HHS separately notifies Federal agencies of the laboratories and IITFs currently certified to meet the standards of the Mandatory Guidelines using Urine and of the laboratories currently certified to meet the standards of the Mandatory Guidelines using Oral Fluid.

The Mandatory Guidelines using Urine were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); January 23, 2017 (82 FR 7920); and on October 12, 2023 (88 FR 70768).

The Mandatory Guidelines using Oral Fluid were first published in the **Federal Register** on October 25, 2019 (84 FR 57554) with an effective date of January 1, 2020, and subsequently revised in the **Federal Register** on October 12, 2023 (88 FR 70814).

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71 and allowed urine drug testing only. The Mandatory Guidelines using Urine have since been revised, and new Mandatory Guidelines allowing for oral fluid drug testing have been published. The Mandatory Guidelines require strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on specimens for Federal agencies. HHS does not allow IITFs to conduct oral fluid testing.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines using Urine and/or Oral Fluid. An HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that the test facility has met minimum standards. HHS does not allow IITFs to conduct oral fluid testing.

HHS-Certified Laboratories Approved To Conduct Oral Fluid Drug Testing

In accordance with the Mandatory Guidelines using Oral Fluid effective October 10, 2023 (88 FR 70814), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on oral fluid specimens:

At this time, there are no laboratories certified to conduct drug and specimen validity tests on oral fluid specimens.

HHS-Certified Instrumented Initial Testing Facilities Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine effective February 1, 2024 (88 FR 70768), the following HHS-certified IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Dynacare *, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190 (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories Approved To Conduct Urine Drug Testing

In accordance with the Mandatory Guidelines using Urine effective February 1, 2024 (88 FR 70768), the following HHS-certified laboratories meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

Desert Tox, LLC, 5425 E Bell Rd, Suite 125, Scottsdale, AZ 85254, 602–457–5411/623–748–5045

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare *, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630 (Formerly: Gamma-Dynacare Medical Laboratories)

ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609

LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295 (Formerly: Legacy Laboratory Services Toxicology MetroLab)

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)

MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088. Testing for Veterans Affairs (VA) Employees Only

Omega Laboratories, Inc. *, 2150 Dunwin Drive, Unit 1 & 2, Mississauga, ON, Canada L5L 5M8, 289–919–3188

Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)

Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840

US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only

* The following laboratory is voluntarily withdrawing from the National Laboratory Certification Program effective October 13, 2024.

Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories continued under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory as meeting the minimum standards of the current Mandatory Guidelines published in the **Federal Register**. After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program. DOT established this process in July 1996 (61 FR 37015) to allow foreign laboratories to participate in the DOT drug testing program.

Anastasia D. Flanagan,

Public Health Advisor, Division of Workplace Programs.

[FR Doc. 2024–22505 Filed 9–30–24; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0107]

Agency Information Collection Activities; Extension; Application for Waiver of Passport and/or Visa (DHS Form I–193)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than October 31, 2024) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Please submit written comments and/or suggestions in English. 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis

Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (89 FR 25277) on April 10, 2024, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Application for Waiver of Passport and/or Visa (DHS Form I–193).

OMB Number: 1651–0107.

Form Number: I–193.

Current Actions: This submission will extend the authority without changing the annual burden previously reported or information collected.

Type of Review: Extension (without change).

Affected Public: Individuals.

Abstract: The data collected on DHS Form I–193, Application for Waiver of Passport and/or Visa, allows CBP to determine an applicant's identity, alienage, claim to legal status in the United States, and eligibility to enter the United States under 8 CFR 211.1(b)(3) and 212.1(g). DHS Form I–193 is an application completed via oral interview by a CBP Officer with a nonimmigrant alien seeking admission to the United States requesting a waiver of passport and/or visa requirements due to an unforeseen emergency. It is also an application for an immigration alien returning to an unrelinquished lawful permanent residence in the United States after a temporary absence aboard requesting a waiver of documentary requirements for good cause. The waiver of the documentary requirements and the information collected on DHS Form I–193 is authorized by Sections 212(a)(7), 212(d)(4), and 212(k) of the Immigration and Nationality Act, as amended, and 8 CFR 211.1(b)(3) and 212.1(g). This form is accessible at *https://www.uscis.gov/i-193.*

Type of Information Collection: I–193.

Estimated Number of Respondents: 25,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 25,000.

Estimated Time per Response: 10 minutes.

Estimated Total Annual Burden Hours: 4,167.

Dated: September 26, 2024.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2024–22532 Filed 9–30–24; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[OMB Control Number 1651–0010]

Agency Information Collection Activities; Extension; Certificate of Registration (CBP Form 4455 & 4457)

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection (CBP) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than October 31, 2024) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Please submit written comments and/or suggestions in English. 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (89 FR 46898) on May 30, 2024, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information,

including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Certificate of Registration.

OMB Number: 1651–0010.

Form Number: 4455 & 4457.

Current Actions: This submission will extend the expiration date of this information collection, with no change to the burden or information collected.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: CBP Form 4455, *Certificate of Registration,* is used primarily for the registration, examination, and supervised lading of commercial shipments of articles exported for repair, alteration, or processing, which will subsequently be returned to the United States either duty free or at a reduced duty rate. CBP Form 4455 is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=4455&=Apply.*

Travelers who do not have proof of prior possession in the United States of foreign made articles and who do not want to be assessed duty on these items can register them prior to departing on travel. To register these articles, the traveler completes CBP Form 4457, *Certificate of Registration for Personal Effects Taken Abroad,* and presents it at the port at the time of export. This form must be signed in the presence of a CBP official after verification of the description of the articles is completed. CBP Form 4457 is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=4457&=Apply.*

CBP Forms 4455 and 4457 are used to provide a convenient means of showing proof of prior possession of a foreign made item taken on a trip abroad and later returned to the United States. This registration is restricted to articles with serial numbers or unique markings. These forms are provided for by 19 CFR 148.1.

Type of Information Collection: CBP Form 4455.

Estimated Number of Respondents: 60,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 60,000.

Estimated Time per Response: 10 minutes (0.166 hours).

Estimated Total Annual Burden Hours: 9,960.

Type of Information Collection: CBP Form 4457.

Estimated Number of Respondents: 140,000.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 140,000.

Estimated Time per Response: 3 minutes (0.05 hours).

Estimated Total Annual Burden Hours: 7,000.

Dated: September 26, 2024.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2024–22528 Filed 9–30–24; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0048]

Declaration of Person Who Performed Repairs or Alterations

AGENCY: U.S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than October 31, 2024) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice 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: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This proposed information collection was previously published in the **Federal Register** (Volume 85 FR Page 74741) on November 23, 2020, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Declaration of Person Who Performed Repairs or Alterations.

OMB Number: 1651–0048.

Current Actions: Extension.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: The ''Declaration of Person Who Performed Repairs or Alterations,'' as required by 19 CFR 10.8, is used in connection with the entry of articles entered under subheadings 9802.00.40 and 9802.00.50, Harmonized Tariff Schedule of the United States (HTSUS, *https://hts.usitc.gov/current*). Articles entered under these HTSUS provisions are articles that were in the U.S., were exported temporarily for repairs or alterations, and are returned to the United States. Upon their return, duty is only assessed on the value of the repairs performed abroad and not on the full value of the article. The declaration under 19 CFR 10.8 includes information such as a description of the article and the repairs or alterations; the value of the article and the repairs or alterations; and a declaration by the owner, importer, consignee, or agent having knowledge of the pertinent facts. The information in this declaration is used by CBP to determine the value of the repairs or alterations, and to assess duty only on the value of those repairs or alterations.

These requirements apply to the trade community who are familiar with CBP regulations and the tariff schedules and are required by law to provide this declaration.

Type of Information Collection: Declaration for Repairs or Alterations.

Estimated Number of Respondents: 10,236.

Estimated Number of Annual Responses per Respondent: 2.

Estimated Number of Total Annual Responses: 20,472.

Estimated Time per Response: 30 minutes (0.5 hours).

Estimated Total Annual Burden Hours: 10,236.

Dated: September 26, 2024.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2024–22524 Filed 9–30–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2024–0029]

Public Assistance Mitigation Cost Share Incentives Policy

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice of availability; request for comment.

SUMMARY: The Federal Emergency Management Agency (FEMA) is accepting comments on its newly issued Public Assistance Mitigation Cost Share Incentives Policy, FEMA Interim Policy FP–104–24–002.

DATES: Comments must be received no later than January 29, 2025.

ADDRESSES: You may submit comments, identified by Docket ID: FEMA–2024–0029, via the Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Robert Pesapane, Director, Public Assistance Division, Federal Emergency Management Agency, *fema-recovery-pa-policy@fema.dhs.gov,* (202) 646–3834.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Interested persons are invited to submit comments and related materials. We will consider all comments and materials received during the comment period.

If you submit a comment, include the docket ID, indicate the specific section of this document to which each comment applies, and give the reason for each comment. All submissions may be posted, without change, to the public docket at *https://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. For more about privacy and the docket, visit *https://www.regulations.gov/privacy-notice.*

The interim policy is available in docket ID FEMA–2024–0029. For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* and search for the docket ID.

II. Background

Under section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended [1] (Stafford Act), the President may provide financial assistance to eligible applicants for the repair, restoration, reconstruction, or replacement of an eligible facility damaged by a major disaster at a minimum Federal cost share of 75 percent.[2]

The Bipartisan Budget Act of 2018 [3] amended the Stafford Act to add the new provision 406(b)(3) authorizing FEMA's Public Assistance (PA) program to increase the minimum Federal cost share for measures that increase readiness for, and resilience from, a major disaster.[4]

This interim Public Assistance Mitigation Cost Share Incentives Policy applies to PA-eligible applicants, including State, local, Tribal, and Territorial governments and certain private nonprofit organizations, and implements section 406(b)(3) by providing guidance regarding eligible measures that meet FEMA's criteria for the Federal cost share increase up to 85 percent.

III. Maximizing the Value of Public Feedback

The impacts of Federal policies tend to be widely dispersed on society. Members of the public are likely to have useful information, data, and perspectives on the benefits and burdens of FEMA's existing programs and policies. FEMA seeks public feedback relevant to FEMA's interim Public Assistance Mitigation Cost Share Incentives Policy.

The following is meant to assist members of the public in formulating comments. This notice contains a list of five questions, the answers to which will assist FEMA in understanding how and why incentive measures in the interim policy are supported or opposed by stakeholders, and additional incentive measures that should be considered for inclusion in a future version of the policy. FEMA encourages public comment on these questions and seeks any other national-level data that commenters believe are relevant to FEMA's interim policy review. Below are recommendations for commenters to use when making comments in response to the questions, so that FEMA can better evaluate potential changes to the interim policy:

- Commenters should explain, with as much detail as possible, why an aspect of the interim policy should be modified and provide specific suggestions of ways the agency can better achieve its objectives.

[1] Public Law 93–288, 42 U.S.C. 5121 *et seq.*

[2] 42 U.S.C. 5172.

[3] Public Law 115–123, 132 Stat. 64.

[4] 42 U.S.C. 5172(b)(3).

• Commenters should provide specific national-level data that document the costs, burdens, and benefits of potentially new requirements to the extent they are available. Commenters might also address how FEMA can best obtain and consider accurate, objective information and data about the costs, burdens, and benefits of the interim policy and whether there are existing sources of data that FEMA can use to evaluate the effects of the interim policy over time.

• Commenters should identify with specificity administrative burdens, program requirements, information collection burdens, waiting time, or unnecessary complexity that may impose unjustified barriers in general, or that may have adverse effects on equity for all, including those in disadvantaged communities.

• Commenters should provide the number of the question(s) being answered in the commenter's response (*e.g.* In response to question #5 . . .).

IV. Specific Information Requested

FEMA seeks comment on the interim policy, specifically on:

1. How will the activities incentivized through the interim policy increase resilience or decrease future risk? Please explain.

2. Will there be specific challenges faced by disadvantaged communities in meeting the requirements of the interim policy? In particular, will disadvantaged communities have challenges in adopting the building or energy codes necessary for the 10% increase in cost share? Please explain.

3. Are the incentives outlined in the policy sufficient to encourage additional investment or activity that would not have otherwise occurred? Why or why not?

4. Are there alternative measures that FEMA should consider incentivizing through the policy that would help to achieve greater readiness and resilience to future disasters? Some examples are outlined in the Bipartisan Budget Act of 2018, which authorized FEMA to provide the cost share incentives under the PA program, including: adoption of a mitigation plan, participation in the community rating system, and making investments in disaster relief, insurance, and emergency management programs. Please comment on those examples and/or provide additional examples.

5. Are there ways to make the interim policy more accessible or to decrease public burden in its implementation? Please provide examples.

Based on the comments received, FEMA may make appropriate revisions to the interim policy. When or if FEMA issues a final policy, FEMA will publish a notice of availability in the **Federal Register** and make the final policy available at *https://www.regulations.gov.* Responses to this notice do not bind FEMA to any further actions related to the responses. The final policy will not have the force and effect of law.

Authority: The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (Stafford Act), 42 U.S.C. 5121 *et seq.;* 44 CFR part 206.

Deanne Criswell,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2024–22270 Filed 9–30–24; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0046]

Agency Information Collection Activities; Revision of a Currently Approved Collection: Inter-Agency Alien Witness and Informant Record

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Comments are encouraged and will be accepted until October 31, 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–2006–0062. All submissions received must include the OMB Control Number 1615–0046 in the body of the letter, the agency name and Docket ID USCIS–2006–0062.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, telephone number (240) 721–3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at *http://www.uscis.gov,* or call the USCIS Contact Center at 800–375–5283 (TTY 800–767–1833).

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on May 15, 2024, at 89 FR 42483, allowing for a 60-day public comment period. USCIS did receive 4 comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2006–0062 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 *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

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

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

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

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Inter-Agency Alien Witness and Informant Record.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* Form I–854; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Federal Government. Form I–854 is used by law enforcement agencies to bring alien witnesses and informants to the United States in ''S'' nonimmigrant classification.

(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–854A is 29 and the estimated hour burden per response is 3 hours. The estimated total number of respondents for the information collection I–854B is 34 and the estimated hour burden per response is 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 121 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0.

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. 2024–22525 Filed 9–30–24; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX20EG31DW50100; OMB Control Number 1028–0129]

Agency Information Collection Activities; Hydrography Addressing Tool

AGENCY: Geological Survey, Department of the Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the U.S. Geological Survey (USGS), is proposing to renew an information collection with revisions.

DATES: Interested persons are invited to submit comments on or before December 2, 2024.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0129 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Michael Tinker by email at *mdtinker@usgs.gov,* or by telephone at 303–202–4476.

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 PRA, (44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA.

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 the information will have practical utility.

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used.

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

(4) How the agency might minimize the burden of the collection of information on those who are to respond, including using appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personally identifying information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: This 60-day notice is a renewal, with revisions, for the Hydrography Addressing Tool (HydroAdd), a website developed by the USGS National Geospatial Program, National Geospatial Technical Operations Center (NGTOC).

HydroAdd supports users by providing a mechanism for addressing (or referencing) diverse external datasets to the National Hydrography Dataset (NHD). For example, a user can utilize HydroAdd to reference the geographic locations of field observations of fish presence to the NHD. HydroAdd provides a framework for the management of addressed data and enables upstream and downstream analyses within the context of the stream network. Any type of information can be addressed to the stream network, making this tool highly useful for a broad range of purposes that benefit the Nation.

HydroAdd users are members of the public in State and local government, the private sector, academia, or are other users with basic knowledge of GIS. To use HydroAdd, users must first share their geospatial data as a hosted web feature service from ArcGIS Online. HydroAdd displays the user's data as a web feature service in the browser window. Users can then utilize HydroAdd to address their data to the

NHD. Note that HydroAdd does not allow users to edit the NHD. Users are strictly limited to editing their own data.

Users must register at the HydroAdd website. When registering, users are required to fill out a profile with a username and email contact. This information is stored in the application database.

Revisions to HydroAdd are currently in development. These revisions include (a) allowing HydroAdd to use the latest hydrography product from the USGS 3D Hydrography Program (3DHP), (b) implementing an open-source hosting service for user data (GeoServer), rather than ArcGIS Online, (c) updating some of the underlying logic to speed GIS processing, and (d) updating the name of the tool to *HydroAdd3d.*

Title of Collection: Hydrography Addressing Tool.

OMB Control Number: 1028–0129.

Form Number: NA.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: 200.

Total Estimated Number of Annual Respondents: 200.

Total Estimated Number of Annual Responses: 200.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 200.

Respondent's Obligation: Voluntary.

Frequency of Collection: one time, or as needed if respondent business contact information changes.

Total Estimated Annual Nonhour Burden Cost: None.

An agency may not conduct or sponsor, nor is a person is required to respond to a collection of information unless it displays a currently valid OMB control number.

Kimberly Mantey,

Director, National Geospatial Technical Operations Center.

[FR Doc. 2024–22542 Filed 9–30–24; 8:45 am]

BILLING CODE 4388–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_AK_FRN_MO4500180029]

Boundary Establishment for Birch Creek National Wild and Scenic River, Bureau of Land Management, Alaska State Office, Yukon-Koyukuk Borough, Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Wild and Scenic Rivers Act, the Bureau of Land Management (BLM), Alaska State Office, is transmitting the final boundary of Birch Creek National Wild and Scenic River to Congress.

ADDRESSES: The Birch Creek Wild and Scenic River Boundary description is available for review at *https://www.blm.gov/sites/default/files/docs/2024-06/BLM-AK-Birch-Creek-WSR_Corridor-Lands-description.pdf;* or in person by contacting one of the following offices: the Bureau of Land Management National Office, (DOI Library), 1849 C St. NW, Washington, DC 20240, (202) 208–5815; or the Bureau of Land Management Alaska State Office, 222 West 7th Ave. Stop 13, Anchorage, AK 99513, 907–271–3386. To review in person, arrangements should be made in advance by contacting the appropriate office prior to arrival.

FOR FURTHER INFORMATION CONTACT: Zach Million, BLM Alaska Program Lead for Recreation, Travel Management and National Conservation Lands, by phone, 907–271–3386; or by email, *zmillion@blm.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services for contacting Vivian Browning. 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 section 3(b) of the Wild and Scenic Rivers Act, the BLM Alaska State Office is transmitting the final boundary of the Birch Creek National Wild and Scenic River to Congress. The Birch Creek Wild and Scenic River boundary description is available for review on the website or in person as indicated in the **ADDRESSES** section.

The Alaska National Interest Lands Conservation Act of December 2, 1980 (Pub. L. 96–487), designated Birch Creek in Alaska as a National Wild and Scenic River to be administered by the Secretary of the Interior. The initial comprehensive river management plan (CRMP) was completed in 1983. A revision to the CRMP was needed to be in conformance with BLM's 2009 National Landscape Conservation System, 2016 Steese Record of Decision and Approved Resource Management Plan, and the 2022 Steese Travel and Transportation Management Plan Decision Record.

As specified by law, the boundary will not be effective until 90 days after Congress receives the transmittal.

(Authority: 16 U.S.C. 1271; 16 U.S.C. 1274(b))

Steven M. Cohn,

State Director, Alaska.

[FR Doc. 2024–22417 Filed 9–30–24; 8:45 am]

BILLING CODE 4331–10–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2024–0036]

Notice of Availability of a Joint Record of Decision for the Proposed Atlantic Shores Offshore Wind South Project; Errata

AGENCY: Bureau of Ocean Energy Management, Interior; National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce, U.S. Army Corps of Engineers, Department of the Army.

ACTION: Record of decision; notice of availability of errata.

SUMMARY: On July 8, 2024, the Bureau of Ocean Energy Management (BOEM) published the notice of availability of the joint record of decision (ROD) on the final environmental impact statement (EIS) for the construction and operations plan (COP) submitted by Atlantic Shores Offshore Wind Project 1, LLC and Atlantic Shores Offshore Wind Project 2, LLC (Atlantic Shores) for its proposed Atlantic Shores Offshore Wind South Project (Project) offshore New Jersey in the **Federal Register** (89 FR 55977). The ROD described the Department of the Interior's selected alternative. This errata notice clarifies that the Department of the Interior's selected alternative also includes the removal of a single wind turbine generator (WTG) location, identified as AX01 and located approximately 150 to 200 ft (46 to 61 m) from the observed Fish Haven (Atlantic City Artificial Reef Site). While WTG AX01 was identified as removed in the description of the preferred alternative in the final EIS, BOEM inadvertently omitted a specific statement in the ROD noting that position was removed from the selected layout. In addition, the originally published ROD inadvertently identified WTG AX01 as being subject to micrositing instead of removal. In publishing this errata, BOEM is conforming the specific description of the selected alternative to the final EIS

and making clear that a total of 3 WTG locations will be removed from the Project. Specific locations for WTG removal and micrositing are clarified in a footnote in the ROD errata.

ADDRESSES: The ROD, ROD errata, and associated information are available on BOEM's website at *https://www.boem.gov/renewable-energy/state-activities/atlantic-shores-south.*

FOR FURTHER INFORMATION CONTACT: For information related to BOEM's action, please contact Kimberly Sullivan, BOEM Office of Renewable Energy Programs, 45600 Woodland Road, VAM–OREP, Sterling, Virginia 20166, (702) 338–4766, or *kimberly.sullvian@boem.gov.* For information related to National Marine Fisheries Service's (NMFS) action, contact Katherine Renshaw, National Oceanic Atmospheric Administration (NOAA), Office of General Counsel, (302) 515–0324, *katherine.renshaw@noaa.gov.* For information related to U.S. Army Corps of Engineers' (USACE) action, please contact Stephen Rochette, (215) 656–6515, *PDPA-NAP@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

Technical Corrections

In the Atlantic Shores South ROD dated July 1, 2024, on page 33 is corrected to read:

The selected alternative combines aspects of Alternatives B, C4, D3, and E. The selected alternative will locate all permanent structures into the uniform grid spacing, microsite up to 29 WTGs, 1 OSS, and associated interarray cables outside of the 1,000-ft (305-m) buffer of the ridge and swale features within the NMFS-identified AOCs 1 and 2, restrict the height of WTGs in Project 1 to a maximum hub height of 522 ft (159 m) AMSL and maximum blade tip height of 932 ft (284 m) AMSL, provide a minimum 0.81-nmi (1,500-m) setback between the WTGs in Atlantic Shores South and the WTGs in Ocean Wind 1 (Lease Area OCS–A 0498) by removing two WTGs and micrositing one WTG from Project 1, and remove a single WTG location approximately 150 to 200 ft (46 to 61 m) from the observed Fish Haven (Atlantic City Artificial Reef Site). The total number of permanent structures constructed (WTGs, OSSs, and/or met tower) may not exceed 197.

The added footnote is as follows:

Figure 2.1–10–C4 of the final EIS depicts the unique identifier for each position in the WTG array layout. The selected alternative removes positions AX01, BB05, and BC06 from the layout. Positions AZ08, BA09, BC07, BE10, BE12, BE14, BE15, BE16, BF14, BF15, and BG13 have been deemed acceptable for micrositing by BOEM and USCG.

Walter D. Cruickshank,

Deputy Director, Bureau of Ocean Energy Management.

[FR Doc. 2024–22500 Filed 9–30–24; 8:45 am]

BILLING CODE 4340–98–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1422–1423 (Review)]

Strontium Chromate From Austria and France; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty orders on strontium chromate from Austria and France would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted October 1, 2024. To be assured of consideration, the deadline for responses is October 31, 2024. Comments on the adequacy of responses may be filed with the Commission by December 10, 2024.

FOR FURTHER INFORMATION CONTACT: Alec Resch (202–708–1448), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On November 27, 2019, the Department of Commerce (''Commerce'') issued antidumping duty orders on imports of strontium chromate from Austria and France (84 FR 65349). The Commission is conducting reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR part 201, subparts A and B, and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by Commerce.

(2) The *Subject Countries* in these reviews are Austria and France.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined a single *Domestic Like Product* consisting of all strontium chromate, coextensive with Commerce's scope.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all U.S. producers of strontium chromate.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the *Order Date* is November 27, 2019.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding 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 proceeding as parties

must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post-employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Office of the General Counsel, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to § 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to § 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is on or before 5:15 p.m. on October 31, 2024. Pursuant to § 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is on or before 5:15 p.m. on December 10, 2024. 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. Also, in accordance with §§ 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

Please note the Secretary's Office will accept only electronic filings at 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.

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 24–5–618, expiration date June 30, 2026. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to § 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to § 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution:

If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

Those responding to this notice of institution are encouraged, but not required, to visit the USITC's website at *https://usitc.gov/reports/response_noi_worksheet,* where one can download and complete the ''NOI worksheet'' Excel form for the subject proceeding, to be included as attachment/exhibit 1 of your overall response.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like*

Product, a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in § 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in § 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2023, except as noted (report quantity data in dry pounds and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2023 (report quantity data in dry pounds and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2023 (report quantity data in dry pounds and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise*

produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.61 of the Commission's rules.

By order of the Commission.

Issued: September 25, 2024.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2024–22441 Filed 9–30–24; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1434]

Bulk Manufacturer of Controlled Substances Application: Curia Wisconsin, Inc.

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Curia Wisconsin, Inc., has applied to be registered as a bulk manufacturer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before December 2, 2024. Such persons may also file a written request for a hearing on the application on or before December 2, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.33(a), this is notice that on August 22, 2024, Curia Wisconsin, Inc., 870 Badger Circle, Grafton, Wisconsin 53024–0000, applied to be registered as a bulk manufacturer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Lysergic acid diethylamide	7315	I
Tetrahydrocannabinols	7370	I
4-Bromo-2,5-dimethoxyphenethylamine	7392	I
3,4-Methylenedioxyamphetamine	7400	I
3,4-Methylenedioxymethamphetamine	7405	I
5-Methoxy-N-N-dimethyltryptamine	7431	I
Dimethyltryptamine	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
Lisdexamfetamine	1205	II
Methylphenidate	1724	II
Amobarbital	2125	II
Nabilone	7379	II
4-Anilino-N-Phenethyl-4-Piperidine (ANPP)	8333	II
Opium extracts	9610	II
Opium, powdered	9639	II
Opium, granulated	9640	II
Opium poppy	9650	II
Noroxymorphone	9668	II
Fentanyl	9801	II

The company plans to bulk manufacture the listed controlled substances for the purpose of analytical reference standards or for sale to its customers. In reference to the drug code 7370 (Tetrahydrocannabinols), the company plans to bulk manufacture as synthetic. No other activities for these drug codes are authorized for this registration.

Marsha L. Ikner,

Acting Deputy Assistant Administrator.

[FR Doc. 2024–22446 Filed 9–30–24; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–1435]

Importer of Controlled Substances Application: Fresenius Kabi USA, LLC

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of application.

SUMMARY: Fresenius Kabi USA, LLC has applied to be registered as an importer of basic class(es) of controlled substance(s). Refer to Supplementary Information listed below for further drug information.

DATES: Registered bulk manufacturers of the affected basic class(es), and applicants, therefore, may submit electronic comments on or objections to the issuance of the proposed registration on or before October 31, 2024. Such persons may also file a written request for a hearing on the application on or before October 31, 2024.

ADDRESSES: The Drug Enforcement Administration requires that all comments be submitted electronically through the Federal eRulemaking Portal, which provides the ability to type short

comments directly into the comment field on the web page or attach a file for lengthier comments. Please go to *https://www.regulations.gov* and follow the online instructions at that site for submitting comments. Upon submission of your comment, you will receive a Comment Tracking Number. Please be aware that submitted comments are not instantaneously available for public view on *https://www.regulations.gov.* If you have received a Comment Tracking Number, your comment has been successfully submitted and there is no need to resubmit the same comment. All requests for a hearing must be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/OALJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DPW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for a hearing should also be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 1301.34(a), this is notice that on August 12, 2024, Fresenius Kabi USA, LLC, 3159 Staley Road, Grand Island, New York 14072–2028, applied to be registered as an importer of the following basic class(es) of controlled substance(s):

Controlled substance	Drug code	Schedule
Remifentanil	9739	II

The company plans to import the listed controlled substance(s) as bulk active pharmaceutical ingredient to manufacture Food and Drug Administration (FDA)-approved dosage forms. No other activity for this drug code is authorized for this registration.

Approval of permit applications will occur only when the registrant's business activity is consistent with what is authorized under 21 U.S.C. 952(a)(2). Authorization will not extend to the import of FDA-approved or non-approved finished dosage forms for commercial sale.

Marsha L. Ikner,

Acting Deputy Assistant Administrator.

[FR Doc. 2024–22450 Filed 9–30–24; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0329]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Previously Approved Collection; State Criminal Alien Assistance Program (SCAAP)

AGENCY: Bureau of Justice Assistance, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Bureau of Justice Assistance, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until December 2, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Joseph Husted, State Policy Advisor, Bureau of Justice Assistance, Department of Justice, 999 N Capitol St. NE, Washington, DC 20002; email: *SCAAP@usdoj.gov;* telephone: 202–598–3617.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Assistance, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: In response to the Violent Crime Control and Law Enforcement Act of 1994, section 130002(b), as amended in 1996, BJA administers the State Criminal Alien Assistance Program (SCAAP) and the Department of Homeland Security (DHS).

SCAAP provides federal payments to States and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and who are incarcerated for at least 4 consecutive days during the designated reporting period and for the following correctional purposes;

Salaries for corrections officers
Overtime costs
Performance based bonuses
Corrections work force recruitment and retention
Construction of corrections facilities
Training/education for offenders
Training for corrections officers related to offender population management
Consultants involved with offender population
Medical and mental health services
Vehicle rental/purchase for transport of offenders
Prison Industries
Pre-release/reentry programs
Technology involving offender management/inter agency information sharing
Disaster preparedness continuity of operations for corrections facilities

Overview of This Information Collection

1. *Type of Information Collection:* Extension.

2. *The Title of the Form/Collection:* State Criminal Alien Assistance Program (SCAAP) (Authorizing Legislation: Section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The application process is managed through the internet, using the Office of Justice Programs' (OJP) SCAAP online application system at: *https://bja.ojp.gov/program/state-criminal-alien-assistance-program-scaap/overview?Program_ID=86.*

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:* Affected Public: State, local and tribal governments. The obligation to respond is required to obtain/retain a benefit.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The total or estimated number of respondents for SCAAP is 500.

The time per response is 90 minutes to complete the SCAAP application.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The total annual burden hours for this collection is 750 hours.

7. *An estimate of the total annual cost burden associated with the collection, if applicable:* $0.

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency	Total annual responses	Time per response	Total annual burden (hours)
SCAAP Application	500	1/annually	500	90 min	750 hrs
Unduplicated Totals	*500*		*500*		*750 hrs*

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Portfolio, Management, and Oversight, 145 N Street NE, 4W–218, Washington, DC 20531.

Dated: September 25, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–22407 Filed 9–30–24; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0110]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement With Change of a Previously Approved Collection; Vulnerability Assessment Request

AGENCY: U.S. Marshals Service, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: The U.S. Marshals Service, Department of Justice (DOJ), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 30 days until October 31, 2024.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Assistant Chief Karl Slazer/Management Support Division, U.S. Marshals Service Headquarters, 1215 S Clark St., Ste. 10017, Arlington, VA 22202–4387, by telephone at 202–360–7359 or by email at *karl.slazer@usdoj.gov.*

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Abstract: This form should be completed by state, local and tribal government agencies to request a vulnerability assessment of a government facility by the United States Marshals Service.

Overview of This Information Collection

1. *Type of Information Collection:* Reinstatement with change of a previously approved collection.

2. *The Title of the Form/Collection:* Vulnerability Assessment Request.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* USM–649.

4. *Affected public who will be asked or required to respond, as well as the obligation to respond:*

- *Affected Public:* State, local, and tribal organizations.
- The obligation to respond is voluntary.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 28 respondents will utilize the form, and it will take each respondent approximately 30 minutes to complete the form.

6. *An estimate of the total annual burden (in hours) associated with the collection:* The estimated annual public burden associated with this collection is 14 hours, which is equal to 28 (total # of annual responses) * 0.5 (30 mins).

7. *An estimate of the total annual cost burden associated with the collection, if applicable:*

TOTAL BURDEN HOURS

Activity	Number of respondents	Frequency (annually)	Total annual responses	Time per response (min.)	Total annual burden (hours)
Ex: Survey (individuals or households)	28	1	28	30	14
Unduplicated Totals	28		*28*		14

If additional information is required contact: Darwin Arceo, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 4W–218, Washington, DC.

Dated: September 26, 2024.

Darwin Arceo,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2024–22534 Filed 9–30–24; 8:45 am]

BILLING CODE 4410–04–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. D–12084]

Proposed Exemption From Certain Prohibited Transaction Restrictions Involving United Brotherhood of Carpenters and Joiners of America (the Applicant) Located in Washington, DC

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document provides notice of the pendency before the Department of Labor (the Department) of a proposed individual exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code of 1986 (the Code). This proposed exemption would provide an exemption for the Trustees of the United Brotherhood of Carpenters Pension Fund (the Plan) to sell 19.25 acres of improved real property (the Property) on behalf of the Plan to the United Brotherhood of Carpenters and Joiners of America (UBC) for cash (the Sale). The exemption, if granted, requires adherence to a number of conditions, including that an independent fiduciary will represent the Plan for all purposes with respect to the Sale. The amount of benefits that Plan participants are due under the Plan will not be affected by the exemption.

DATES:

Exemption date: If granted, the exemption would be in effect on the date that the grant notice is published in the **Federal Register**.

Comments due: Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department by November 15, 2024.

ADDRESSES: All written comments and requests for a hearing should be submitted to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Attention: Application No. D–12084 via email to *e-OED@dol.gov* or online through *https://www.regulations.gov.* Any such comments or requests should be sent by the end of the scheduled comment period. The application for exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1515, 200 Constitution Avenue NW, Washington, DC 20210, reachable by telephone at (202) 693–8673. See **SUPPLEMENTARY INFORMATION** below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: Anna Mpras Vaughan of the Department, telephone (202) 693–8567. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Comments: Persons are encouraged to submit all comments electronically without submitting paper versions. Comments should state the nature of the person's interest in the proposed exemption and how the person would be adversely affected by the exemption, if granted. Any person who may be adversely affected by an exemption can request a hearing on the exemption. A request for a hearing must state: (1) The name, address, telephone number, and email address of the person making the request; (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption; and (3) a statement of the issues to be addressed and a general description of the evidence to be presented at the hearing. The Department will grant a request for a hearing made in accordance with the requirements above where a hearing is necessary to fully explore material factual issues identified by the person requesting the hearing. The Department would publish a notice announcing such hearing in the **Federal Register**. The Department may decline to hold a hearing if: (1) the request for the hearing does not meet the requirements above; (2) the only issues identified for exploration at the hearing are matters of law; or (3) the factual issues identified can be fully explored through the submission of evidence in written (including electronic) form.

Warning: All comments received will be included in the public record without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as a Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. However, if EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment.

Additionally, the *https://www.regulations.gov* website is an ''anonymous access'' system, which means EBSA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email directly to EBSA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the internet.

Proposed Exemption

The Department is considering granting the exemption pursuant to its authority under ERISA section 408(a), and in accordance with the Department's exemption procedures.[1] This proposed exemption, if granted, does not provide relief from the requirements of, or specific sections of, any other law. Accordingly, the Applicant is responsible for ensuring compliance with any other laws applicable to the transactions covered by this proposed exemption.

Benefits of the Exemption: As described in more detail below, the Department is proposing relief based, in part, on the Applicant's representations that the Sale will permit the Plan, and its participants and beneficiaries, to earn approximately $4,317,500 to $4,620,000 more in net value than it would otherwise in a sale to an unrelated third party. Other benefits to the Plan are described below.

[1] 29 CFR part 2570, subpart B (75 FR 66637, 66644, October 27, 2011). For purposes of this proposed exemption, references to specific provisions of title I of ERISA unless otherwise specified, should be read to refer as well to the corresponding provisions of Code section 4975.

Summary of Facts and Representations [2]

The UBC

1. The United Brotherhood of Carpenters and Joiners of America (UBC) is an international labor organization with 725 local unions (UBC Local Unions) and 37 councils (the UBC Councils). As of June 20, 2023, the UBC had total assets of $694,351,926. According to the Applicant, a UBC Local Union is chartered by and affiliated with the UBC and represents the individual members of the UBC in its geographic area. In addition, the Applicant states that each UBC Council is affiliated with a UBC Local Union and the various UBC Councils are affiliated to the UBC by the UBC Constitution. However, the Applicant states that the UBC Councils are separate legal entities from the UBC and the UBC does not control the UBC Councils affiliated with it. Further, the Applicant states that none of the trustees appointed by the UBC Councils are officers of the UBC, and no agency relationship exists between the UBC and the UBC Councils.

The Plan

2. The United Brotherhood of Carpenters Pension Fund (the Plan) is a defined benefit multiemployer pension plan, located in Las Vegas, Nevada.[3] The Plan provides defined benefit pension retirement benefits to full-time officers or representatives employed by a UBC Local Union, UBC Council, other designated representatives of a UBC Local Union or UBC Council, or persons who are United States residents and determined to be representative of or professional, management, or confidential employees of the UBC.[4] As of December 31, 2022, the Plan had 4,627 participants; and as of June 30, 2023, the Plan had approximately $931,860,235 in assets. According to the Plan's annual funding notice issued in April 2022, the Plan had a funded percentage of 99.3% as of January 1, 2021.

3. The Plan is sponsored and administered by a Board of Trustees (the Board). The Board is made up of six (6) trustees who are current and former members of the UBC Executive Board (the UBC Trustees) and five (5) trustees who are appointed by officers of UBC Local Unions or UBC Councils (the Council Trustees).[5] The UBC Trustees and the Council Trustees may be referred to collectively as the ''Trustees.'' The Applicant represents that the UBC is an employee organization whose members are covered by the Plan, as well as an employer of employees who are covered by the Plan, and as such is a party in interest with respect to the Plan pursuant to ERISA section 3(14)(C) and (D).

The Property

4. The Plan owns the Property through its wholly-owned LLC, Bermuda Hidden Well, LLC (Bermuda LLC), a limited liability corporation incorporated by the Plan on April 19, 2001 in the State of Delaware. Bermuda LLC was originally formed to hold real property on behalf of the Plan and is managed on behalf of the Plan by Washington Capital Management, Inc. (WCM), who serves as the Plan's independent fiduciary and an ''Investment Manager'' under ERISA section 3(38) with respect to the holdings of Bermuda LLC.

5. The Property consists of 19.25 acres located at 6855 Bermuda Road, Las Vegas, Clark County, Nevada 89119. The Property has been specifically developed for car rental operations and is currently improved with various structures, including an office, a car wash building with fuel area, and a shop building, along with surface and covered parking spaces and a few kiosk guard shack buildings. The total building area comprises 45,321 square feet.

6. The Property was originally a portion of a larger 30.14 acre parcel (the Original Parcel) that was acquired by the Plan on June 11, 2011, from LV-Airport Investors, LLC, an unrelated party, for a total cash price of $10,464,126. The Original Parcel was subdivided and a 10.89 acre portion (the Adjacent Parcel) was sold to the Southwest Regional Council of Carpenters (the Southwest Council) in 2011 pursuant to PTE 2011–15.[6]

7. The UBC then acquired the Adjacent Parcel from the Southwest Council in 2017. The Applicant represents that the Adjacent Parcel abuts the Carpenters International Training Center (on the side opposite the Property), which is a UBC member-owned training facility.

8. When the Property was acquired by the Plan, it was subject to and encumbered by a lease between lessee Alamo Rent-A-Car, LLC and Lessor LV-Airport Investors, LLC, effective April 12, 2001, for an initial term of twenty (20) years, with two (2) renewal terms of five (5) years each (the 2001 Lease). The monthly basic rent under the 2001 Lease was $75,708.33 for an annual basic rent of $908,500.00. Since 2001, the lessee has changed over the years. Vanguard Car Rental USA, Inc. became the successor in interest to Alamo Rental (US) Inc., which was the successor in interest to Alamo Rent-A-Car, LLC. The current lessee, Enterprise Leasing Company-West, LLC (Enterprise), eventually became the successor-in-interest to Vanguard Car Rental USA, Inc. The Plan (through Bermuda LLC) became the lessor in 2011 following the purchase of the Original Parcel that included the Property.

9. The 2001 Lease was scheduled to expire in April 2021. In preparation for discussions with the current lessee over a possible renewal term, WCM engaged Valuation Consultants, Inc. to complete an appraisal and rental study of the Property (the June 2020 Appraisal). The June 2020 Appraisal demonstrated that rent escalations in Enterprise's 20-year lease had lagged far behind market rental rates. The Applicant states that considering the June 2020 Appraisal findings, any rental rate agreed to

[2] The Summary of Facts and Representations is based on the Applicant's representations and does not reflect factual findings or opinions of the Department at all times, unless indicated otherwise. The Department notes that the availability of this exemption, if granted, is subject to the express condition that the material facts and representations contained in application D–12084 (the Application) are true and complete, and accurately describe all material terms of the transactions covered by this exemption. If there is any material change in a transaction covered by this exemption, or in a material fact or representation described in the Application, the exemption will cease to apply as of the date of such change.

[3] The Applicant states that the Plan elected to become a multiemployer plan in accordance with section 3(37)(G) of ERISA and meets the legislative definition of a multiemployer plan under 3(37)(G)(vi). That section reads, ''(vi) A plan is described in this clause if it is a plan sponsored by an organization which is described in section 501(c)(5) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code 1986 and which was established in Chicago, Illinois, on August 12, 1881.'' The United Brotherhood of Carpenters Pension Fund is sponsored by the UBC, which is a 501(c)(5) organization, tax exempt under Section 501(a) of the Code, and was established in Chicago, Illinois, on August 12, 1881.

[4] Employees of the Carpenters International Training Fund, The International Labor-Management Committee for the Floor and Wall Covering Industry, the UBC National Job Corps Training Fund, The United Brotherhood of Carpenters Pension Fund, and the Carpenters Legislative Improvement Committee may also be eligible for participation in the Fund.

[5] The Applicant represents that, unlike other multiemployer plans, the Plan is not maintained by a collective bargaining agreement and, therefore, is not a ''Taft-Hartley'' plan, pursuant to section 305(c)(5) of the Labor Management Relations Act. Because the Trustees of the Plan are appointed by either the UBC or UBC Local Unions and UBC Councils, none of the Trustees could be considered ''employer representatives,'' which would be required for the plan to constitute a Taft-Hartley multiemployer plan.

[6] 76 FR 49789 (August 11, 2011).

between WCM and the current lessee should be significantly higher than the rent the lessee had been paying under the 2001 Lease. Based on the rate increase, impact of the Covid pandemic on the Las Vegas economy, and its internal needs, Enterprise decided not to renew the 2001 Lease and to negotiate its gradual exit from the 2001 Lease. To this end, the Plan entered into several short-term lease extensions with Enterprise that included early right of termination clauses in favor of the Plan. Most recently, the Plan and Enterprise entered into an amendment of the 2001 Lease extending the expiration date for a portion of the Property through December 31, 2024. The Plan is permitted to terminate the 2001 Lease before December 31, 2024, upon 90 days' written notice.

Decision To Sell the Property

10. The Plan's immediate goal was to receive fair market value rental rate for the lease of the Property upon the termination of Enterprise's lease. Based on analyses by Valuation Consultants, Inc. and guidance from WCM, a new tenant was not likely to enter a long-term lease at the Property's current fair market rental value. Furthermore, the Property had been modified to specifications that suited Enterprise's operations (rental car business with attached storage and maintenance facilities). Following an evaluation process in the fourth quarter of 2020, WCM reported that it appeared unlikely that the Plan could secure another long-term lease without significantly redeveloping the Property to reposition it for a new tenant that was not in the car rental business.[7] WCM identified that the highest and best use of the Property would be to redevelop it with light industrial buildings.

11. WCM determined that, in order to receive the most value in connection with the Plan's investment in the Property, and to avoid additional redevelopment costs and maintenance expenses, the Plan could sell the Property to the UBC.[8] As discussed below, the UBC owns a parcel of property that is adjacent to the Property, and the Property is in close proximity to the Carpenters International Training Center. The Applicant states that no third party has inquired about purchasing the Property, and the UBC does not intend to sell the Property to a third party after its acquisition from the Plan. The Applicant represents that the UBC plans to develop the Property into two light industrial buildings to accommodate the UBC's expansion of its International Training Center.

12. The Applicant represents that the UBC Trustees recused themselves and abstained from any and all discussions concerning the potential Sale of the Property to the UBC, and that only the Council Trustees participated in the decision to sell the Property to the UBC.[9] The Council Trustees decided that the Sale to the UBC was the most appropriate approach given the Plan's goals. The Council Trustees ultimately determined that it would be appropriate to engage an independent fiduciary other than WCM to oversee and ultimately determine whether the Plan will complete the proposed Sale.

The Independent Fiduciary

13. The Plan engaged Shumaker, Loop & Kendrick LLP (Shumaker or the Independent Fiduciary) as the Plan's Independent Fiduciary with respect to the proposed Sale pursuant to an engagement agreement dated December 5, 2022. The Applicant represents that the Council Trustees engaged in a prudent process on behalf of the Plan to select Shumaker as the independent fiduciary.[10]

14. Scott D. Newsom and Beth M. Eckel of Shumaker were retained to carry out the independent fiduciary duties of Shumaker to the Plan.[11] Mr. Newsom represents that he has over 20 years of experience in employee benefits law and ERISA, primarily representing multiemployer benefit plans in all aspects of their maintenance and fulfillment of the Board of Trustees' fiduciary obligations. Ms. Eckel represents that she has 13 years of experience as a real estate attorney focused on commercial real estate and financing matters. Ms. Eckel states she has broad experience in representing developers, owners, lenders, borrowers and large and small businesses in a wide range of transactions, including the acquisition, disposition, leasing, financing, construction and development of real property.

15. Shumaker represents that the revenue received from its engagement as Independent Fiduciary for the Plan is less than two percent of its gross revenue for the 2021 federal income tax year, and less than 3.3 percent of its gross revenue for the 2022 federal income tax year. Shumaker does not have any interest in the proposed transaction other than the compensation it will earn by serving as Independent Fiduciary for the proposed Sale. Furthermore, Shumaker represents that it (1) has not entered into, and under the terms of the proposed exemption would not at any time enter into, any agreement, arrangement, or understanding that includes any provision providing for it to be directly or indirectly indemnified or reimbursed by the Plan or any other party if Shumaker fails to adhere to its contractual obligations or those imposed by any state or Federal laws applicable to the Independent Fiduciary's work; (2) the Plan has not waived and will not waive any rights, claims, or remedies of the Plan under ERISA, state, or Federal law against Shumaker with respect to the proposed Sale.

16. Shumaker acknowledges its responsibilities under ERISA as an Independent Fiduciary acting on behalf of the Plan with respect to the Proposed Sale. The Applicant and Shumaker confirm that Shumaker will determine whether the Plan proceeds with the Sale. Further, Shumaker states that it: does not have a past or ongoing relationship with the UBC except for the services provided to the Plan as Independent Fiduciary with respect to the proposed Sale; has not had and currently does not have any relationship with any UBC Locals or any individual trustees on the board of the Plan.

17. In accordance with ERISA sections 404(a)(1)(A) and (B), Shumaker, as the Plan's Independent Fiduciary, must prudently and loyally perform the following in connection with the proposed Sale and the exemption, if granted: (i) represent the interests of the Plan in the Sale; (ii) determine that the Sale is in the interest of, and protective of the rights of, the Plan and its participants and beneficiaries; (iii) determine that the Sale price is in the

[7] The Applicant represents further that other car rental companies would be unlikely to enter into a long-term lease for the Property due to the land's increasing value for this limited purpose.

[8] As described in more detail below, the Applicant states the sale to the UBC would generate an additional profit of $3,410,000 to the Plan as compared to a sale to an unrelated third party.

[9] A discussion of the whether the purported recusal may be effective to negate a violation of ERISA section 406(b) is found below. Further, the Department notes that the Council Trustees themselves may have an interest in the UBC that could affect their decision making as fiduciaries of the Plan.

[10] The Council Trustees prepared a request for proposal for an independent fiduciary to oversee the sale of the Property pursuant to which candidates were asked, among other things, to provide: examples of similar independent fiduciary services to other clients; their knowledge and experience of the Las Vegas real estate market; their process for selecting appraisers, reviewing appraisals, and analyzing the adequacy of the appraisal methodologies; and their experience with appraisers and understanding how to oversee the appraisal process. The Department is not expressing a view whether the process followed by the Council Trustees was prudent, as such matter is outside the scope of this application.

[11] Unless otherwise provided, Mr. Newsom and Ms. Eckel are referred to herein collectively as ''Shumaker.''

interest of, and protective of the rights of, the Plan and its participants and beneficiaries; (iv) review and approve the terms and conditions of the Sale in the Independent Fiduciary's sole discretion and further negotiate any conditions they consider to be in the interest of the Plan, in accordance with their fiduciary duties; (v) independently and prudently engage the qualified independent appraiser, Cushman & Wakefield of Nevada, Inc. (Cushman or the QIA), for the Sale; (vi) review and approve the methodology used by the QIA and ensure that such methodology is properly applied in determining the Property's fair market value on the date of the Sale; (vii) monitor the Sale throughout its duration consistent with its duties as a prudent plan fiduciary; (viii) ensure that the QIA renders an updated fair market valuation of the Property as of the date of the Sale; (ix) determine whether it is prudent to proceed with the Sale; (x) refrain from entering into any agreement, arrangement or understanding that violates ERISA section 410; [12] (xi) ensure compliance with the general terms of the proposed transaction and with the conditions of the proposed exemption; (xii) take any appropriate actions to safeguard the interests of the Plan and its participants and beneficiaries; and (xiii) submit a written report to the Department not later than 90 days after the Sale has been completed demonstrating that each exemption condition has been met.

The QIA

18. Shumaker engaged the appraisal firm Cushman to conduct an appraisal of the Property in connection with the application in December of 2022 (the 2022 Appraisal).[13] Shumaker states that it selected Cushman after a prudent process that considered the appraiser's reputation, expertise, and experience, and well as its familiarity with the Property and requirements of appraisals that would be utilized in connection with applications for a prohibited transaction exemption. Shumaker also evaluated Cushman's independence from the parties in interest involved in the proposed transaction and determined that Cushman had no interest in the proposed Sale of the Property or the parties to the transaction that could affect its independence.[14]

19. Cushman's employee, Petra Latch (MAI) conducted the 2022 Appraisal. Ms. Latch is a certified general appraiser in Nevada. In addition to providing appraisal services, Ms. Latch serves in various positions on local Appraisal Institute and real estate industry boards.

20. Cushman represents that it has no relationship to any parties in interest or their affiliates engaging in the proposed transaction. Further, Cushman represents that it has no interest in the Property or the outcome of the transaction and certifies that the gross revenue from the Plan or any party in interest (and any of their affiliates) for 2022 is less than two (2) percent of its annual revenue based upon its income for the prior federal income tax year.

21. The QIA has not entered into, and must not at any time enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of the QIA by the Plan or any other party for any failure by the QIA to adhere to its contractual obligations or those imposed by state or Federal laws applicable to the QIA's work. Additionally, the Plan has not waived and will not waive any rights, claims or remedies of the Plan or its participants and beneficiaries under ERISA, the Code, or other Federal and state laws against the QIA with respect to the subject matter of the exemption.

The Appraisal

22. The 2022 Appraisal gave an ''as is'' fair market value of the Property of $30,325,000.[15] In addition, the 2022 Appraisal concluded that the Property was particularly valuable to the UBC because the UBC owned land that was adjacent to the Property. The 2022 Appraisal therefore increased the ''as is'' value of the Property by $3,410,000 (the ''assemblage increase'').[16] The 2022 Appraisal also quantified the contributory value of costs spent to date by the Plan for the proposed re-development of the Property, as $270,000 (the ''contributory costs''), and further increased the value of the Property by that additional amount.[17]

23. Shumaker reviewed the 2022 Appraisal and found that the QIA's analysis was reasonable and consistent with the type of substantive professional report that Shumaker expected when it engaged the QIA, which is an appraisal firm with a national reputation. Shumaker states that it does not have any concerns that the report was deficient, inaccurate, or not performed in accordance with the QIA's professional standards.

Relevant Sale Terms

24. The Plan's counsel negotiated the terms of the proposed Purchase and Sale Agreement and Joint Escrow Instructions (the Sale Agreement), which were reviewed and approved by the Independent Fiduciary. According to the terms of the Sale Agreement, the UBC will pay the Plan the greater of: (a) $33,930,000, which is the sum of the Property's ''as is'' price ($30,250,000), plus the ''assemblage increase'' ($3,410,000), plus the Plan's ''contributory costs'' ($270,000)); or (b) the fair market value of the Property as established by a qualified independent appraiser in an updated appraisal of such Property on the date of the Sale.[18] Further, the Plan will pay no fees, commissions or other expenses associated with the Property's Sale.

Clawback for Subsequent Sales by the UBC

25. In determining whether to propose the relief requested by the Applicant, the Applicant's representations that the UBC was an appropriate purchaser of the Property (as opposed to other third parties) due to its ownership of adjacent property and the UBC's payment of a premium in the form of an assemblage increase was an important consideration to the Department. In addition, the Applicant's representation that it did not plan to resell the Property to a third party—instead, it planned to expand its International Training Center, located adjacent to the Property—was material to the Department's consideration of whether to propose relief.

26. However, due to uncertainties about the present and future value of the Property, the Department is concerned that UBC could subsequently sell the Property for an additional profit that

[12] ERISA section 410 generally provides that any provision in an agreement or instrument that purports to relieve a fiduciary for responsibility or liability for any responsibility, obligation, or duty under Part I of Title I of ERISA is void against public policy.

[13] Shumaker and Cushman are parties to an engagement agreement dated and executed on December 26, 2022.

[14] The Applicant notes that the QIA also performed an appraisal in January 2022 on behalf of the Plan in order to assist WCM in determining the ''highest and best use'' of the Property.

[15] The 2022 Appraisal contains detailed analysis which is available by contacting the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1515, 200 Constitution Avenue NW, Washington, DC 20210. Please reference D–12084.

[16] As described above, the Original Parcel (30.14 acres previously owned by the Plan in its entirety) was subdivided into the Property (19.25 acres currently owned by the Plan) and the Adjacent Parcel (10.89 acres currently owned by the UBC).

[17] The 2022 Appraisal provides that the total value of architect, engineer, and development studies and other activities paid for by the Plan, which add to the value of the Property if purchased by the UBC is $270,000 (rounded).

[18] The 2022 Appraisal will be updated prior to closing with a subsequent appraisal.

could have been captured by the Plan. To address this concern, the Department has included a ''clawback'' provision in Section III(h) of the proposed exemption that would become effective if the UBC sells the Property within 10 years after the date of the Sale for a price that is greater than the proceeds received in the Sale by the Plan. In such event, the excess of such sale price over the amount received by the Plan will be contributed in cash by the UBC to the Plan as of the end of the Plan year following the date of such subsequent sale. The clawback provision would apply if UBC sells the whole Property or subdivides and sells a portion of the Property.

27. The Department is also concerned, due to the potential future value of the Property and its location in a prime area near the Las Vegas airport and the Las Vegas Strip, that the UBC may decide in the future to monetize the Property, via lease or other means, in a manner inconsistent with its stated rationale for purchasing the Property. As described above, this proposed exemption is predicated, in part, on the representations of the parties that the UBC intends to use the Property to expand its International Training Center, and not as a means of obtaining a profit that could otherwise have redounded to the benefit of the Plan. Therefore, the exemption would require the UBC to contribute to the Plan an amount in cash equal to 51 percent of the gross revenue received from the UBC's use of the Property in a manner or for a purpose that is inconsistent with the UBC's stated intention to expand its International Training Center and/or provide union-related services to members of the UBC. This obligation would apply to any such revenue earned during the 10 years following the date of Sale and such amounts must be contributed by the UBC to the Plan by the end of the Plan year following the year in which such revenue is earned.

Independent Fiduciary Analysis and Conclusion

28. *Benefit to the Plan.* Shumaker states that the proposed Sale to the UBC would allow the Plan to realize a previously unrealized gain that UBC could re-invest without delay. Specifically, the Plan would receive approximately $33,930,000 for the Property, representing a significant gain of approximately 407.43% on the $6,686,576.50 portion of the original $10,387,619.55 acquisition cost attributable to the Property. The Plan's investment managers could invest the sales proceeds immediately in accordance with the Plan's overall investment policy statement and asset allocation strategy.

29. Shumaker also represents that the proposed Sale allows the Plan to sell the Property at a premium due to the assemblage value through the Property's combination with the Adjacent Parcel owned by the UBC. This assemblage value adds an additional 11.27% ($3,410,000) to the purchase price. If the Plan desired to market the Property to third parties, the 2022 Appraisal indicates that a resulting purchase price of $30,250,000 would be anticipated. Further, the Plan would incur a commission on a sale to a third party of at least 3–4%. Assuming a sale price of $30,250,000, the Plan would be expected to pay an additional amount of $907,500 to $1,210,000 in sales commissions. The proposed Sale would not require a commission to be paid to any listing or commercial real estate agent. Therefore, a sale of the Property by the Plan to an unrelated third-party at ''As Is'' fair market value would be anticipated to result in approximately $4,317,500 to $4,620,000 less than the proposed Sale (the lost assemblage value plus the otherwise avoided commissions).

30. In addition, Shumaker states that the proposed Sale to the UBC offers the Plan an opportunity to resolve its issues with the Property in an efficient and timely manner. Shumaker states that the planned expiration of the 2001 Lease means that the Plan needs to address its future plans for the Property effectively at this time to avoid the loss of income from the rental payments and the added expense of maintenance costs from an unproductive piece of property.[19]

31. Shumaker also states that the proposed Sale allows the Plan to avoid the expense of redeveloping the Property for sale to a third party. As determined by the 2022 Appraisal, the highest and best use of the Property would be achieved through the demolition of the buildings following the expiration of the 2001 Lease and the redevelopment of the Property with industrial use, or mixed use that includes industrial, office and supporting commercial uses. However, redevelopment to achieve such highest and best use would present risks and challenges to transition the Property. In the 2022 Appraisal, Cushman warned that ''Construction costs are escalating, and a redevelopment plan of this size might require a three-year time period during which time there is risk related to costs.''

32. Further, Shumaker states that the proposed Sale would relieve the Plan of the risks inherent in preparing the Property for market or attempting to redevelop the Property itself. According to Shumaker, the potential lack of income or investment gain from the Property over a several year development period (compared to an assumed 7.5% return on Plan investments), the up-front cost of any development (including risk of escalating costs), and the risk of selecting the right type of redevelopment to increase the value of the Property above what would be realized by the proposed Sale, all seem unnecessary and speculative risks for the Plan to take on when compared to the availability of a one-time sale. Similarly, Shumaker suggests that the development of the Property by the Plan in accordance with the desires of the UBC or a related party for a build-to-lease type arrangement would require an ongoing business relationship between the Plan and the UBC over an extended period-of-time and compliance with an administrative exemption, which involves additional ongoing compliance and administrative burdens.[20]

33. *Conclusion of the Independent Fiduciary.* Shumaker concludes that the proposed Sale would: provide the Plan with the opportunity to sell the Property for a significant gain above and beyond that which it would receive in a sale with an unrelated third party buyer; avoid leaving the Plan with an unproductive, passive investment asset; and eliminate the risk of loss and loss of investment opportunity associated with the necessary redevelopment of the Property and the time associated with that process if the Plan opted to lease the Property to a new lessee.

34. Shumaker states that the terms and conditions of the proposed Sale Agreement are at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party. Subject to the terms of the exemption, if granted by the Department, the UBC has borne and will continue to bear the costs of the

[19] As described above, the Applicant represents that it is unlikely other car rental companies would enter into a long-term lease due to the high rental rate that would be required for that purpose, and it was also unlikely that the UBC Pension Fund could secure a long-term lease with a tenant in another industry without significantly redeveloping the Property.

[20] The Department expresses no opinion herein on whether, under these facts, any build to use leasing arrangement between the Plan and UBC would meet the requirements of Prohibited Transaction Exemption 76–1 (41 FR 12740, March 26, 1976, as corrected by 41 FR 16620, April 20, 1976), or any other administrative exemption, to qualify for exemptive relief from the prohibited transaction provisions of ERISA sections 406(a) and 407(a).

exemption application, and the Plan will bear costs for the Independent Fiduciary and the QIA. The proposed Sale would be a one-time cash transaction and would not require any additional continued oversight by the Department.

35. Lastly, to further ensure the protection of the Plan and its members, Shumaker states it will continue to monitor the Sale, enforce the final terms, and take whatever actions are necessary to protect the interests of the Plan's participants and beneficiaries through closing. Finally, as described above, Shumaker has reviewed and approved the terms and conditions of the Sale in its sole discretion and will further negotiate any conditions Shumaker concludes are in the interest of the Plan in accordance with Shumaker's fiduciary duties.

Legal Analysis of the Exemptive Relief Requested

36. The Applicant has requested an administrative exemption from the Department because the proposed Sale would violate several ERISA provisions. ERISA section 406(a)(1)(A) provides that a plan fiduciary shall not cause a plan to engage in a transaction if the fiduciary knows or should know that the transaction constitutes a direct or indirect sale or exchange, or leasing, of any property between a plan and a party in interest. Further, ERISA section 406(a)(1)(D) prohibits a plan fiduciary from causing a plan to engage in a transaction if the fiduciary knows or should know that such transaction constitutes a direct or indirect transfer to or use of any plan assets for the benefit of a party in interest. ERISA section 3(14)(D) defines the term ''party in interest'' to include an employee organization any of whose members are covered by such plan.[21] ERISA section 3(14)(A) defines the term ''party in interest'' to include any fiduciary of such plan.[22] Thus, the Trustees, as fiduciaries to the Plan and the UBC as an employee organization whose members are covered by the Plan are parties in interest with respect to the Plan, pursuant to ERISA sections 3(14)(A) and 3(14)(D), respectively. Accordingly, the proposed Sale would constitute a violation of ERISA Section 406(a)(1)(A) and (D).

37. ERISA section 406(b)(1) provides that a fiduciary with respect to a plan shall not deal with the assets of the plan in his own interest or for his own account. Further, ERISA section 406(b)(2) provides that a fiduciary with respect to a plan shall not in his individual or in any other capacity act in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries.

38. The Applicant states that the decisions regarding the Sale and the Independent Fiduciary were made by Trustees that were appointed by the UBC Councils, because the UBC Trustees recused themselves from any such decisions.[23] The Applicant suggests that the recusal of the UBC Trustees from any decisions with respect to the proposed Sale or the hiring of the Independent Fiduciary obviates any violation for fiduciary self-dealing under ERISA section 406(b)(1) or (2), because such decisions were made by the Council Trustees.[24] However, the Department does not agree that the Council Trustees' decision making regarding the Sale and the Independent Fiduciary did not involve a violation of ERISA section 406(b)(1) or (2). In this regard, the record does not demonstrate that the Council Trustees are independent of the UBC or that the Council Trustees do not have an interest in the UBC that would affect the exercise of their best fiduciaries.[25] As described above, each UBC Council is affiliated with a UBC Local Union and the various UBC Councils are affiliated to the UBC by the UBC Constitution. Further, the Council Trustees are members of the UBC and represent other members of the UBC. Accordingly, exemptive relief from ERISA sections 406(b)(1) and 406(b)(2) is being proposed because the Council Trustees' actions on behalf of the Plan in connection with the Sale, including by selecting the Independent Fiduciary, may constitute prohibited transactions, and because whether the UBC Trustees effectively recused themselves from all decision-making regarding the Sale is a factual matter outside the scope of this exemption.[26]

39. In accordance with the above, the Department is proposing an exemption from ERISA sections 406(a)(1)(A), 406(a)(1)(D), 406(b)(1), and 406(b)(2), for the Sale by the Trustees on behalf of the Plan to the UBC, only if the Independent Fiduciary is responsible for the ultimate decision to complete the Sale on behalf of the Plan, reviews and approves the terms and conditions of the Sale, and represents the interests of the Plan for all purposes in connection with the Sale; and the parties adhere to all the conditions for the exemption.

Statutory Findings

40. The proposed exemption is ''Administratively Feasible.'' The Department has tentatively determined that the proposed exemption is administratively feasible for the Department because, among other things, the Sale would be a one-time cash transaction. Furthermore, the conditions for the exemption require the Independent Fiduciary to monitor the parties' adherence to the terms of the Sale and the conditions of the exemption throughout the transaction and submit a report to the Department Plan not later than 90 days after the Sale has been completed demonstrating that each exemption condition has been met.

41. The proposed exemption is ''In the Interests of the Plan.'' The Department has tentatively determined that the proposed exemption is in the interests of the Plan because the proposed Sale would: (i) provide the Plan with a Sale price that significantly exceeds the Property's fair market value compared to what the Plan would

[21] ERISA section 3(4) provides, in pertinent part, that the term ''employee organization'' means any labor union or organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning an employee benefit plan or other matters incidental to employment relationships; or any employees' beneficiary association organized for the purposes in whole or in part, of establishing such a plan.

[22] ERISA section 3(21)(A) provides, in pertinent part, that a person is a ''fiduciary'' with respect to a plan to the extent (i) he exercises any discretionary authority or discretionary control respecting management of such plan or exercises any authority or control respecting management or disposition of its assets, (ii) he renders investment advice for a fee or other compensation, direct or indirect, with respect to any moneys or other property of such plan, or has any authority or responsibility to do so, or (iii) or he has any discretionary authority or discretionary responsibility in the administration of such plan.

[23] The Applicant represents above that the UBC Councils are not controlled by the UBC, none of the Trustees appointed by the UBC Councils are officers of the UBC, and no agency relationship exists between the UBC and the UBC Councils.

[24] The Department cautions that the determination as to whether the UBC Trustees' recusal from certain aspects of the proposed Sale negates a violation of ERISA section 406(b)(1) or (2) is inherently factual in nature and beyond the scope of this proposed exemption.

[25] The Department notes that ''[the] prohibitions [of ERISA section 406(b)] are imposed upon fiduciaries to deter them from exercising the authority, control, or responsibility which makes such persons fiduciaries when they have interests which may conflict with the interests of the plans for which they act. In such cases, the fiduciaries have interests in the transaction which may affect the exercise of their best judgment as fiduciaries.'' See DOL Reg 2550.408b–2(e)(1).

[26] The Department is not taking a view whether a violation of ERISA section 406 has occurred or will occur due to the actions of the Council Trustees or the UBC Trustees, as such conclusions are inherently factual in nature and are outside the scope of this proposed exemption. Exemptive relief is being provided only in the event that the actions of the Trustees constituted a violation of ERISA section 406(b).

receive in a transaction with an unrelated third party buyer due to the assemblage value; (ii) avoid the Plan's holding of an unproductive passive investment asset, and the time and expense the Plan would incur to make the Property suitable to lease or sell to a new, third party buyer or lessee that is not in the rental car business. In addition, the Plan would not pay any commissions, expenses or fees in connection with the proposed Sale nor bear the costs associated with the exemption application or notifying interested persons.

42. The proposed exemption is ''Protective of the Plan.'' The Department has tentatively determined that the proposed exemption is protective of the rights of the Plan's participants and beneficiaries because, among other things, an Independent Fiduciary has reviewed the proposed Sale, the financial status of the Plan, the appraised value of the Property, and the terms of the Sale, and determined that the terms and conditions are protective of the rights of the Plan and its participants and beneficiaries. Further, among other things, the Independent Fiduciary would be required to provide a written report to the Department demonstrating that all of the exemption's conditions have been met within 90 days after of the proposed Sale. To further protect the rights of the participants and beneficiaries of the Plan, the exemption includes a ''clawback'' provision the Department designed to ensure that the Plan would recapture any profit on a subsequent sale of the Property or use of the Property by the UBC within 10 years of the date of the Sale.

Summary

43. Based on the conditions that are included in this proposed exemption, the Department has tentatively determined that the relief sought by the Applicant would satisfy the statutory requirements for an individual exemption under ERISA section 408(a).

Notice to Interested Persons

Notice of the proposed exemption will be provided to all interested persons within fifteen (15) days of the publication of the notice of proposed exemption in the **Federal Register**. The notice will be provided to all interested persons in the manner approved by the Department and will contain the documents described therein and a supplemental statement required by 29 CFR 2570.43(a)(2). The supplemental statement will inform interested persons of their right to comment on and to request a hearing with respect to the pending exemption. All written comments and/or requests for a hearing must be received by the Department within forty-five (45) days of the date of publication of this proposed exemption in the **Federal Register**. All comments will be made available to the public.

Warning: If you submit a comment, EBSA recommends that you include your name and other contact information in the body of your comment, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number) or confidential business information that you do not want publicly disclosed. All comments may be posted on the internet and can be retrieved by most internet search engines.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA section 408(a) and/or Code section 4975(c)(2) does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of ERISA and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA section 404, which, among other things, require a fiduciary to discharge their duties respecting the plan solely in the interest of the plan and its participants and beneficiaries and in a prudent manner in accordance with ERISA section 404(a)(1)(B); nor does it affect the requirement of Code section 401(a) that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under ERISA section 408(a) and/or Code section 4975(c)(2), the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemption, if granted, would be supplemental to, and not in derogation of, any other provisions of ERISA and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is, in fact, a prohibited transaction; and

(4) The proposed exemption, if granted, would be subject to the express condition that the material facts and representations contained in the application are true and complete at all times and that the application accurately describes all material terms of the transactions which are the subject of the exemption.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is proposing to grant an exemption under the authority of ERISA section 408(a) and Code section 4975(c)(2) in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of proposed exemption is issued solely by the Department.

Section I. Definitions

(a) The term ''Bermuda LLC'' means Bermuda Hidden Well, LLC.

(b) The term ''Board'' means a board of trustees made pursuant to the Plan's Declaration of Trust, consisting of six (6) trustees who are current and former members of the UBC Executive Board and five (5) trustees who are appointed from officers of UBC local unions or UBC councils.

(c) The term ''Independent Fiduciary'' means Shumaker, Loop & Kendrick LLP;

(d) The term ''Plan'' means United Brotherhood of Carpenters Pension Fund;

(e) The term ''Property'' means the 19.25-acre parcel of improved real property owned by the Plan and located at 6855 Bermuda Road, Las Vegas, Clark County, Nevada;

(f) The term ''QIA'' means Cushman & Wakefield of Nevada, Inc.;

(g) The ''Sale'' means the one-time sale for cash of the Property by the Trustees on behalf of the Plan through its subsidiary entity, Bermuda LLC, to the UBC; and

(h) The term ''UBC'' means United Brotherhood of Carpenters and Joiners of America.

(i) The term ''Trustees'' means the six (6) trustees on the Plan's Board of Trustees who are current and former members of the UBC Executive Board and five (5) trustees who are appointed by officers of UBC Local Unions or UBC Councils.

Section II. Covered Transactions

If the proposed exemption is granted, the restrictions of ERISA sections

406(a)(1)(A) and 406(a)(1)(D), and 406(b)(1) and (b)(2), shall not apply to the Sale, effective as of the date a final exemption is published in the **Federal Register**, provided that the parties adhere to the conditions in Section III, below.

Section III. Conditions

(a) The Sale is a one-time transaction for cash that must be completed within 90 days of the effective date of the exemption;

(b) At the time of the Sale, the Plan receives the greater of (1) $34,090,000; or (2) the fair market value of the Property as established by the QIA in an updated appraisal of such Property on the date of the Sale (the Sale Proceeds);

(c) The Plan pays no commissions, expenses, or fees associated with the Sale, and the Plan does not bear the costs of: (1) the exemption application; nor (2) notifying interested persons;

(d) The Plan fiduciaries prudently determined that the Sale of the Property is in the Plan's best interest and for no less than fair market value.

(e) The terms and conditions of the Sale are at least as favorable to the Plan as those obtainable in an arm's length transactions with an unrelated third party;

(f) The Independent Fiduciary, in accordance with ERISA sections 404(a)(1)(A) and (B), must prudently and loyally:

(1) represent the Plan's interests with respect to the Sale;

(2) determine that the Sale is in the interests of, and protective of, the Plan and its participants and beneficiaries;

(3) determine that the Sale price for the Property is in the interests of, and protective of, the Plan;

(4) review and approve the terms and conditions of the Sale in their sole discretion and further negotiate any conditions they consider to be in the best interest of the Plan;

(5) independently engage the QIA for the Sale;

(6) ensure that the appraisal is based on complete, current and accurate information; review and approve the methodology used by the QIA that such methodology is properly applied in determining the Property's fair market value on the date of the Sale; and that it is appropriate to rely upon the appraisal as accurately reflecting the fair market value of the Property;

(7) monitor the Sale throughout its duration consistent with its duties as a prudent plan fiduciary;

(8) ensure that the QIA renders an updated fair market valuation of the Property as of the date of the Sale in accordance with paragraph (f)(6) of this Section;

(9) determine whether it is prudent for the Plan to proceed with the Sale and has the ultimate decision-making authority to approve the Sale on behalf of the Plan;

(10) ensures compliance with the general terms of the Sale and with the conditions of the exemption;

(11) takes any appropriate actions to safeguard the interests of the Plan and its participants and beneficiaries; and

(12) submits a written report to the Department not later than 90 days after the Sale has been completed demonstrating that each exemption condition has been met;

(g) (1) The Independent Fiduciary must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of the Independent Fiduciary by the Plan or other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the Independent Fiduciary's work: the Independent Fiduciary may not seek or receive any waiver of any rights, claims, or remedies of the Plan under ERISA, state, or Federal law against the Independent Fiduciary with respect to the subject matter of the exemption; and

(2) The Independent Fiduciary has not and will not enter into any agreement, arrangement or understanding that violates ;

(h) (1) Subsequent Sale Proceeds Subject to Clawback Provision. If UBC sells the Property within 10 years after the date of the Sale, for a sale price that is greater than the Sale Proceeds, then the amount of the subsequent sale price received by UBC that exceeds the Sale Proceeds (the Excess Amount) must be contributed by the UBC to the Plan in cash before the end of the Plan year following the date of such subsequent sale. If UBC subdivides the Property and a portion of the Property is subsequently sold by UBC, then the Excess Amount would be determined by subtracting from the subsequent sale price the amount of Sale Proceeds attributable to the portion of the Property that was sold in such subsequent sale as determined by an independent appraiser. The records applicable to any subsequent sale by UBC covered by this provision, including any appraisals, must be provided to the Office of Exemption Determinations at *e-OED@dol.gov* within 90 days after the date of such sale.

(2) Revenue Share from Use of Property. If UBC earns revenue from its use of the Property in any calendar year, including in connection with the lease of the Property to a third party, in a manner or for a purpose that is inconsistent with the UBC's stated intention to expand its International Training Center and/or the provision of union-related services permitted under the UBC's governing documents, then the UBC must contribute to the Plan an amount in cash equal to 51 percent of such gross revenue earned in each such calendar year. Such amounts must be contributed by the UBC to the Plan by the end of the Plan year following the year in which such revenue is earned. The records necessary to demonstrate that this paragraph (h)(2) has been met must be provided to the Office of Exemption Determinations at *e-OED@dol.gov* within 90 days after the end of the calendar year in which the revenue was received.

(i) Any QIA selected by the Independent Fiduciary must not have entered into, and must not enter into, any agreement, arrangement, or understanding that includes any provision that provides for the direct or indirect indemnification or reimbursement of the QIA by the Plan or any other party for any failure to adhere to its contractual obligations or to state or Federal laws applicable to the QIA's work; the QIA may not seek or obtain any waiver of any rights, claims or remedies of the Plan or its participants and beneficiaries under ERISA, the Code, or other Federal and state laws against the QIA with respect to the subject matter of the exemption; and

(j) The Board and the Independent Fiduciary maintain for a period of six (6) years from the date of Sale, in a manner that is convenient and accessible for audit and examination, the records necessary to enable the persons described in paragraph (k)(1) below to determine whether conditions of this exemption have been met, except that (i) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Board and/or the Independent Fiduciary, the records are lost or destroyed prior to the end of the six-year period, and (ii) no party in interest other than the Board or the Independent Fiduciary shall be subject to the civil penalty that may be assessed under ERISA section 502(i) if the records are not maintained, or are not available for examination as required by paragraph (k) below; and

(k)(1) Except as provided in Section (2) of this paragraph and notwithstanding any provisions of subsections (a)(2) and (b) of ERISA

section 504, the records referred to in paragraph (j) above shall be unconditionally available at their customary location during normal business hours to:

(i) any duly authorized employee or representative of the Department or the Internal Revenue Service;

(ii) the Board or any duly authorized representative of the Board;

(iii) the Independent Fiduciary or any duly authorized representative of the Independent Fiduciary;

(iv) any participant or beneficiary of the Plan, or any duly authorized representative of such participant or beneficiary;

(2) If any party refuses to disclose information to a person on the basis that such information is exempt from disclosure, such party must provide a written notice to that person advising them of the reasons for the refusal and that the Department may request such information on their behalf by the close of the thirtieth (30th) day following the request;

(l) The Sale is not part of an agreement, arrangement or understanding designed to benefit UBC or any of its affiliates;

(m) The Board, the UBC, and/or the Independent Fiduciary must provide to the Department the records necessary to demonstrate that the conditions of this exemption, as amended, have been met, within 30 days from the date the Department requests such records; and

(n) All the material facts and representations made by the Applicant that are set forth in the Summary of Facts and Representations are true and accurate at all times.

Exemption Date: If granted, this proposed exemption will be in effect on the date that the grant notice is published in the **Federal Register**.

Signed at Washington, DC.

George Christopher Cosby,

Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2024–22468 Filed 9–30–24; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act of 1974 Technical Release 1991–1

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 31, 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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 101(e) of ERISA establishes notice requirements that must be satisfied before an employer may transfer excess assets from a defined benefit pension plan to a retiree health benefit account, as permitted under the conditions set forth in section 420 of the Internal Revenue Code of 1986, as amended (the Code).

The notice requirements of ERISA section 101(e) are two-fold. First, subsection (e)(1) requires plan administrators to provide advance written notification of such transfers to participants and beneficiaries. Second, subsection (e)(2)(A) requires employers to provide advance written notification of such transfers to the Secretaries of Labor and the Treasury, the plan administrator, and each employee organization representing participants in the plan. Both notices must be given at least 60 days before the transfer date. The two subsections prescribe the information to be included in each type of notice and further give the Secretary of Labor the authority to prescribe how notice to participants and beneficiaries must be given, and how any additional reporting requirements are deemed necessary.

On May 8, 1991, the Department published ERISA Technical Release 91–1, to provide guidance on how to satisfy the notice requirements prescribed by ERISA section 101(e). The Technical Release made two changes in the statutory requirements for the second type of notice. First, it required the notice to include a filing date and the intended asset transfer date. Second, it simplified the statutory filing requirements by providing that filing with the Department of Labor would be deemed sufficient notice to both the Department and the Department of the Treasury as required under the statute. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 5, 2024 (89 FR 7732).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Employee Retirement Income Security Act of 1974 Technical Release 1991–1.

OMB Control Number: 1210–0084.

Affected Public: Private sector, Business or other for profits.

Total Estimated Number of Respondents: 14.

Total Estimated Number of Responses: 119,718.

Total Estimated Annual Time Burden: 4,011 hours.

Total Estimated Annual Other Costs Burden: $3,744.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–22434 Filed 9–30–24; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act Blackout Period Notice

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 31, 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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Sarbanes-Oxley Act (SOA), enacted on July 30, 2002, amended ERISA to include a blackout period disclosure requirement in subsection 101(i). This information collection requires administrators of individual account pension plans (*e.g.,* a profit sharing plan, 401(k) type plan or money purchase pension plan) to provide at least 30 days advance written notice to the affected participants and beneficiaries in advance of any ''blackout period'' during which their existing rights to direct or diversify their investments under the plan, or obtain a loan or distribution from the plan will be temporarily suspended. The term ''blackout period'' is generally defined as any period of more than three consecutive business days during which time the ability of plan participants and beneficiaries to direct or diversify investments or to obtain loans or distributions is suspended, limited or restricted. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 5, 2024 (89 FR 7732).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Employee Retirement Income Security Act Blackout Period Notice.

OMB Control Number: 1210–0122.

Affected Public: Private sector, Business or other for profits.

Total Estimated Number of Respondents: 50,312.

Total Estimated Number of Responses: 8,045,170.

Total Estimated Annual Time Burden: 85,926 hours.

Total Estimated Annual Other Costs Burden: $244,734.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–22435 Filed 9–30–24; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Permit-Required Confined Spaces

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 31, 2024.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: These collections of information are needed by employers and employees involved in the entry of permit-required confined spaces to prevent injuries and death from exposure to the hazards associated with such entries. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 16, 2024 (89 FR 57944).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection

of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Permit-Required Confined Spaces.

OMB Control Number: 1218–0203.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 221,852.

Total Estimated Number of Responses: 14,404,596.

Total Estimated Annual Time Burden: 2,110,225 hours.

Total Estimated Annual Other Costs Burden: $665,700.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–22431 Filed 9–30–24; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Registration for EFAST–2 Credentials

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before October 31, 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: Michael Howell by telephone at 202–693–6782, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Employee Retirement Income Security Act of 1974 (ERISA) section 104 requires administrators of employee benefits plans (pension and welfare plans) and employers sponsoring certain fringe benefit plans and other plans of deferred compensation to file returns/reports annually with the Secretary of Labor concerning the financial condition and operation of plans. Reporting requirements are satisfied by filing the Form 5500 in accordance with its instructions and the related regulations. Form 5500 filings are processed under the ERISA Filing Acceptance System 2 (EFAST–2), which is designed to simplify and expedite the receipt and processing of the Form 5500 by relying on internet-based forms and electronic filing technologies.

In order to file electronically, employee benefit plan Filing authors, Schedule authors, Filing signers, Form 5500 transmitters, and entities developing software to complete and/or transmit the Form 5500 are required to register for EFAST–2 credentials through the EFAST2 website. The information requested for registration includes: Applicant type (Filing Author, Filing Signer, Schedule Author, Transmitter, or software developer); mailing address; fax number (optional); email address; company name, contact person; and daytime telephone number. Registrants must also provide an answer to a challenge question (''What is your date of birth?'' or ''Where is your place of birth?''), which enables users to retrieve forgotten credentials. In addition, registrants must accept a Privacy Agreement; PIN Agreement; and, under penalty of perjury, a Signature Agreement. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 5, 2024 (89 FR 7732).

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–EBSA.

Title of Collection: Registration for EFAST–2 Credentials.

OMB Control Number: 1210–0117.

Affected Public: Private sector, Business or other for profits.

Total Estimated Number of Respondents: 91,723.

Total Estimated Number of Responses: 91,723.

Total Estimated Annual Time Burden: 30,574 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Michael Howell,

Senior Paperwork Reduction Act Analyst.

[FR Doc. 2024–22430 Filed 9–30–24; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Older Workers Study Impact Evaluation, New Collection

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor (DOL), as part of its continuing effort to

reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). 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 is properly assessed. Currently, the Department of Labor is soliciting comments concerning the collection of data about the Senior Community Service Employment Program (SCSEP). A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 2, 2024.

ADDRESSES: You may submit comments by either one of the following methods: *Email: ChiefEvaluationOffice@dol.gov; Mail or Courier:* Marie-Ellen Ehounou, Chief Evaluation Office, OASP, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW, Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Marie-Ellen Ehounou by email at *ChiefEvaluationOffice@dol.gov* or by phone at (202) 693–5506.

SUPPLEMENTARY INFORMATION:

I. *Background:* The Chief Evaluation Office (CEO) of the U.S. Department of Labor (DOL) intends to design and conduct an impact study of the Senior Community Service Employment Program Sector-based Training Grants Demonstration for Low-income Older Workers. This impact study is part of the larger Older Workers Study, which includes the following components:

(1) A review of existing knowledge and data to inform evaluation activities,

(2) An implementation evaluation design,

(3) An early implementation study and in-depth implementation study of programs receiving the 2020 SCSEP grants,

(4) An impact evaluation that identifies an intervention for a pilot and rigorously evaluates the impact of the intervention on older workers' employment outcomes (primarily placement outcomes), and

(5) An evaluability assessment and potential future research options that would address important gaps in the evidence base related to employment services for older workers.

DOL's CEO contracted with Urban Institute and its partner Capital Research Corporation to conduct the Older Workers Study.

This **Federal Register** Notice provides the opportunity to comment on the proposed data collection instrument that will be used in the evaluation: the participant Baseline Information Form and informed consent for the Impact Study.

DOL will submit additional requests for future data collection for the overall study.

II. *Desired Focus of Comments:* Currently, DOL is soliciting comments concerning the above data collection for the Older Workers Impact Study. DOL is particularly interested in comments that do the following:

- 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.
- 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-for example, permitting electronic submission of responses.

III. *Current Actions:* At this time, DOL is requesting clearance for a Baseline Information Form and informed consent form for participants in the Older Workers Impact Study.

Type of Review: New information collection request.

OMB Control Number: 1290–0NEW.

Affected Public: Individuals or households.

Comments submitted in response to this request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

ESTIMATED ANNUAL BURDEN HOURS

Type of instrument	Number of respondents	Number of responses per respondents	Total number of responses	Average burden per response (in hours)	Estimated burden hours	Average hourly wage ($) [1]	Annual burden costs
Informed Consent and Baseline Information From ...	1,600	1	1,600	.25	400	[1] 7.25	$2,900
Total	1,600	1	1,600	.25	400	[1] 7.25	2,900

[1] Hourly wage for participants is the minimum wage.

Alix Gould-Werth,

Chief Evaluation Officer, U.S. Department of Labor.

[FR Doc. 2024–22432 Filed 9–30–24; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0047]

Bloodborne Pathogens Standard; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the Bloodborne Pathogens Standard.

DATES: Comments must be submitted (postmarked, sent, or received) by December 2, 2024.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Docket: To read or download comments or other material in the docket, go to *https://www.regulations.gov*. Documents in the docket are listed in the *https://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the websites. All submissions, including copyrighted material, are available for inspection through the OSHA Docket Office. Contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for assistance in locating docket submissions.

Instructions: All submissions must include the agency name and OSHA docket number (OSHA–2010–0047) for the Information Collection Request (ICR). OSHA will place all comments, including any personal information, in the public docket, which may be made available online. Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birthdates.

For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of the continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, the collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of effort in obtaining information (29 U.S.C. 657).

The following paragraph describes the information collected under the Standard, as well as how they use it. The purpose of these requirements is to protect workers from occupational exposures to the infectious hazardous agents posed by bloodborne pathogens.

The information collection requirements specified in the Bloodborne Pathogens Standard require employers to: develop and maintain an exposure control plan; develop a housekeeping schedule; provide workers with Hepatitis B Virus (HBV) vaccinations, post-exposure medical evaluations and follow-up; maintain medical and training records for specified periods; and provide employees and their authorized representatives with access to these records. Employers must also establish and maintain a sharps injury log for the recording of percutaneous injuries from contaminated sharps.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the agency's functions to protect workers, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information, and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend the approval of the information collection requirements contained in the Bloodborne Pathogens Standard. The agency is requesting an adjustment increase in burden from 5,727,929 to 7,870,142 hours, a difference of 2,142,213 hours. This increase is due to an increase in the number of facilities going from 701,563, to 793,728 and the number of employees going from 8,425,607 to 16,975,449 affected by the Standard. The operation and maintenance cost increased from $52,427,598 to $116,568,859.

OSHA will summarize the comments submitted in response to this notice and will include this summary in the request to OMB to extend the approval of the information collection requirements.

Type of Review: Extension of a currently approved collection.

Title: Bloodborne Pathogens Standard.

OMB Control Number: 1218–0180.

Affected Public: Business or other for-profits.

Number of Respondents: 793,728.

Number of Responses: 43,856,212.

Frequency of Responses: On occasion.

Average Time per Response: Varies.

Estimated Total Burden Hours: 7,870,142.

Estimated Cost (Operation and Maintenance): $116,568,859.

IV. Public Participation—Submission of Comments on this Notice and internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) electronically at *https://www.regulations.gov,* which is the Federal eRulemaking Portal; or (2) by facsimile (fax), if your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648. All comments, attachments, and other material must identify the agency name and the OSHA docket number for the

ICR (Docket No. OSHA–2010–0047). You may supplement electronic submission by uploading document files electronically.

Comments and submissions are posted without change at *https://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *https://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this website. All submission, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *https://www.regulations.gov* website to submit comments and access the docket is available at the website's ''User Tips'' link.

Contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627) for information about materials not available from the website, and for assistance in using the internet to locate docket submissions.

V. Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8–2020 (85 FR 58393).

Signed at Washington, DC, on September 25, 2024.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2024–22429 Filed 9–30–24; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–24–0021; NARA–2024–056]

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice of certain Federal agency requests for records disposition authority (records schedules). We publish notice in the **Federal Register** and on *regulations.gov* for records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on such records schedules.

DATES: We must receive responses on the schedules listed in this notice by November 18, 2024.

ADDRESSES: To view a records schedule in this notice, or submit a comment on one, use the following address: *https://www.regulations.gov/docket/NARA-24-xxxx/document*. This is a direct link to the schedules posted in the docket for this notice on *regulations.gov*. You may submit comments by the following method:

- *Federal eRulemaking Portal: https://www.regulations.gov.* On the website, enter either of the numbers cited at the top of this notice into the search field. This will bring you to the docket for this notice, in which we have posted the records schedules open for comment. Each schedule has a 'comment' button so you can comment on that specific schedule. For more information on *regulations.gov* and on submitting comments, see their FAQs at *https://www.regulations.gov/faq*.

If you are unable to comment via *regulations.gov,* you may email us at *request.schedule@nara.gov* for instructions on submitting your comment. You must cite the control number of the schedule you wish to comment on. You can find the control number for each schedule in parentheses at the end of each schedule's entry in the list at the end of this notice.

FOR FURTHER INFORMATION CONTACT: Kimberly Richardson, Strategy and Performance Division, by email at *regulation_comments@nara.gov* or at 301–837–2902. For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We are publishing notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

In addition, this notice lists the organizational unit(s) accumulating the records or states that the schedule has agency-wide applicability. It also provides the control number assigned to each schedule, which you will need if you submit comments on that schedule. We have uploaded the records schedules and accompanying appraisal memoranda to the *regulations.gov* docket for this notice as ''other'' documents. Each records schedule contains a full description of the records at the file unit level as well as their proposed disposition. The appraisal memorandum for the schedule includes information about the records.

We will post comments, including any personal information and attachments, to the public docket unchanged. Because comments are public, you are responsible for ensuring that you do not include any confidential or other information that you or a third party may not wish to be publicly posted. If you want to submit a comment with confidential information or cannot otherwise use the *regulations.gov* portal, you may contact *request.schedule@nara.gov* for instructions on submitting your comment.

We will consider all comments submitted by the posted deadline and consult as needed with the Federal agency seeking the disposition authority. After considering comments, we may or may not make changes to the proposed records schedule. The schedule is then sent for final approval by the Archivist of the United States. After the schedule is approved, we will post on *regulations.gov* a ''Consolidated Reply'' summarizing the comments, responding to them, and noting any changes we made to the proposed schedule. You may elect at *regulations.gov* to receive updates on the docket, including an alert when we post the Consolidated Reply, whether or not you submit a comment. If you have a question, you can submit it as a comment, and can also submit any concerns or comments you would have to a possible response to the question. We will address these items in consolidated replies along with any other comments submitted on that schedule.

We will post schedules on our website in the Records Control Schedule (RCS) Repository, at *https://www.archives.gov/records-mgmt/rcs,* after the Archivist approves them. The RCS contains all schedules approved since 1973.

Background

Each year, Federal agencies create billions of records. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval. Once

approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. The records schedules authorize agencies to preserve records of continuing value in the National Archives or to destroy, after a specified period, records lacking continuing administrative, legal, research, or other value. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

Agencies may not destroy Federal records without the approval of the Archivist of the United States. The Archivist grants this approval only after thorough consideration of the records' administrative use by the agency of origin, the rights of the Government and of private people directly affected by the Government's activities, and whether or not the records have historical or other value. Public review and comment on these records schedules is part of the Archivist's consideration process.

Schedules Pending

1. Department of Energy, Southeastern Power Administration, Environmental Retention Program (DAA–0388–2024–0007).

2. Department of Health and Human Services, Administration for Strategic Preparedness and Response, Medical Countermeasures (DAA–0611–2023–0003).

3. Department of Justice, Office of the Deputy Attorney General, Justice Manual Records (DAA–0060–2024–0016).

4. Export-Import Bank of the United States, Agency-wide, Records of the Office of the Inspector General (DAA–0275–2024–0001).

5. Library of Congress, Agency-wide, Library Archives and Research 2024 updates (DAA–0297–2024–0008).

6. Library of Congress, Agency-wide, Outreach 2024 Updates (DAA–0297–2024–0009).

William P. Fischer,

Acting Chief Records Officer for the U.S. Government.

[FR Doc. 2024–22445 Filed 9–30–24; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Renewal of Agency Information Collection of a Previously Approved Collection; Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of submission to the Office of Management and Budget.

SUMMARY: As required by the Paperwork Reduction Act of 1995, The National Credit Union Administration (NCUA) is submitting the following extensions and revisions of currently approved collections to the Office of Management and Budget (OMB) for renewal.

DATES: Written comments should be received on or before October 31, 2024 to be assured consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Dacia Rogers at (703) 518–6547, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0188.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Type of Review: Extension of a previously approved collection.

Abstract: This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Number of Respondents: 56,000.

Estimated Total Annual Burden Hours: 42,000.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) whether the collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated collection techniques or other forms of information technology.

By the National Credit Union Administration Board.

Melane Conyers-Ausbrooks,

Secretary of the Board.

[FR Doc. 2024–22498 Filed 9–30–24; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Technology, Innovation and Partnerships; 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 Technology, Innovation and Partnerships (#84684) (Hybrid).

Date and Time: October 30, 2024; 12pm–4pm (Eastern).

Place: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314 (Hybrid).

The meeting will be hybrid, with some Advisory Committee members participating in person and others participating virtually. Members of the public can view the meeting virtually. To attend the virtual meeting, please send your request for the virtual meeting link to the following email: *afenzel@nsf.gov.*

Type of Meeting: Open.

Contact Persons: Chaitanya Baru, Senior Advisor, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–8050. Additional meeting information, an updated agenda, and registration information will be posted on the AC's website at *https://new.nsf.gov/tip/tip-advisory-commitee.*

Purpose of Meeting: To provide advice to the National Science Foundation concerning implementation of the provisions of the CHIPS and

Science Act of 2022, Public Law 117–167, pertaining to the Directorate for Technology, Innovation and Partnerships (TIP), along with other related policies and activities of the Foundation.

Agenda

Wednesday, October 30, 2024

- Welcome and overview of the TIP Advisory Committee's charge
- Introduction to TIP, including current portfolio of investments and partnerships
- Strategic recommendations for TIP
- Next steps and closing remarks

Dated: September 26, 2024.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2024–22538 Filed 9–30–24; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request; Participatory Research and Indigenous Leadership in Research Evaluation

ACTION: Correction.

SUMMARY: The National Science Foundation (NSF) published a document in the **Federal Register** of September 25, 2024, concerning a request for public comment on the Participatory Research and Indigenous Leadership in Research Evaluation. In the description of the Principles for Conducting Research in the Arctic, one principle was omitted.

Corrections

In the **Federal Register** published September 25, 2024, in FR Doc. 2024–21973 (Filed 9–24–24), on page 78345, at the top of the second column, please include ''Respect Indigenous knowledges'' before ''Effective Communication.''

All other details remain unchanged.

Dated: September 26, 2024.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2024–22503 Filed 9–30–24; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0165]

Monthly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Monthly notice.

SUMMARY: Pursuant to section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular monthly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration (NSHC), notwithstanding the pendency before the Commission of a request for a hearing from any person.

DATES: Comments must be filed by October 31, 2024. A request for a hearing or petitions for leave to intervene must be filed by December 2, 2024. This monthly notice includes all amendments issued, or proposed to be issued, from August 16, 2024, to September 12, 2024. The last monthly notice was published on September 3, 2024.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0165. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the ''**FOR FURTHER INFORMATION CONTACT**'' section of this document.
- *Mail comments to:* Office of Administration, Mail Stop: TWFN–7–A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Kay Goldstein, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1506; email: *Kay.Goldstein@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0165, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0165.
- *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.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the ''Availability of Documents'' section.
- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2024–0165, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the

comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

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

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

For the facility-specific amendment requests shown in this notice, the Commission finds that the licensees' analyses provided, consistent with section 50.91 of title 10 of *the Code of Federal Regulations* (10 CFR) ''Notice for public comment; State consultation,'' are sufficient to support the proposed determinations that these amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission is seeking public comments on these proposed determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determinations.

Normally, the Commission will not issue the amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendment involves NSHC. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final NSHC determination for any of these amendments, any hearing will take place after issuance. The Commission expects that the need to take action on any amendment before 60 days have elapsed will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, federally recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the

Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant name, docket number, date of application, ADAMS accession number, and location in the application of the licensees' proposed NSHC determinations. For further details with respect to these license amendment applications, see the applications for amendment, which are available for public inspection in ADAMS. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT REQUESTS

Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC	
Docket Nos.	50–269, 50–270, 50–287.
Application date	July 29, 2024.
ADAMS Accession No.	ML24212A048.
Location in Application of NSHC	Pages 16–18 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise Technical Specification (TS) 3.7.7, ''Low Pressure Service Water (LPSW) System'' by allowing a one-time extended Completion Time for one required LPSW pump inoperable. The proposed amendment would modify the current Completion Time Note associated with TS 3.7.7, Condition A, Required Action A.1 to 360 hours to be used once during an Oconee Unit 2 refueling outage. The proposed extended Completion Time would have an expiration date of December 31, 2027.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Tracey Mitchell LeRoy, Deputy General Counsel, Duke Energy Corporation, 525 S. Tryon Street, Charlotte, NC 28210.
NRC Project Manager, Telephone Number	Jack Minzer Bryant, 301–415–0610.

Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; San Luis Obispo County, CA	
Docket Nos.	50–275, 50–323.
Application date	July 31, 2024.
ADAMS Accession No.	ML24213A331.
Location in Application of NSHC	Pages 84–87 of the Enclosure.
Brief Description of Amendments	The proposed amendments would revise Technical Specification 5.5.16, ''Containment Leakage Rate Testing Program,'' by replacing the reference to Regulatory Guide (RG) 1.163, ''Performance-Based Containment Leak-Test Program,'' with Revision 1 of RG 1.163 and associated changes.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jennifer Post, Esq., Pacific Gas and Electric Co., 77 Beale Street, Room 3065, Mail Code B30A, San Francisco, CA 94105.

LICENSE AMENDMENT REQUESTS—Continued

NRC Project Manager, Telephone Number	Samson Lee, 301–415–3168.

PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit Nos. 1 and 2; Salem County, NJ

Docket Nos.	50–272, 50–311.
Application date	July 24, 2024.
ADAMS Accession No.	ML24206A100.
Location in Application of NSHC	Pages 8–10 of Enclosure 1.
Brief Description of Amendments	The proposed amendments would revise technical specifications for Salem Generating Station Unit Nos. 1 and 2 to allow the use of Optimized ZIRLO as an approved fuel rod cladding material.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Francis Romano, PSEG—Services Corporation, 80 Park Plaza, T–10, Newark, NJ 07102.
NRC Project Manager, Telephone Number	James Kim, 301–415–4125.

Tennessee Valley Authority; Sequoyah Nuclear Plant, Units 1 and 2; Hamilton County, TN; Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Docket Nos.	50–327, 50–328, 50–390, 50–391.
Application date	December 18, 2023, as supplemented by letter dated August 19, 2024.
ADAMS Accession No.	ML23352A298, ML24232A071.
Location in Application of NSHC	Pages E5 and E6 of Enclosure to ML23352A298; Page E1 of Enclosure to ML24232A071.
Brief Description of Amendments	The proposed amendments would revise Sequoyah Nuclear Plant, Units 1 and 2, and Watts Bar Nuclear Plant, Units 1 and 2, Technical Specification (TS) 3.3.2, ''Engineered Safety Feature Actuation System (ESFAS) Instrumentation,'' Table 3.3.2–1, Function 5.a, ''Automatic Actuation Logic and Actuation Relays,'' and Function 5.b, ''SG [Steam Generator] Water Level-High High (P–14),'' to add a note stating when the turbine trip function is not required. Additionally, the proposed amendments would revise Note (f) of Watts Bar Nuclear Plant, Unit 1, TS Table 3.3.2–1, Functions 5.a and 5.b, and Note (h) of Watts Bar Nuclear Plant, Unit 2, TS Table 3.3.2–1, Functions 5.a and 5.b, to be consistent with Sequoyah Nuclear Plant, Units 1 and 2, TS Table 3.3.2–1, Functions 5.a and 5.b, and with the corresponding Note and Table in Westinghouse Standard TS (NUREG–1431, Revision 5.0). Additionally, the proposed amendments would re-letter the notes in Sequoyah Nuclear Plant, Units 1 and 2, TS Table 3.3.2–1 due to the addition of the new note, and delete Note (j) and Note (k) from Watts Bar Nuclear Plant, Units 1 and 2, respectively, as well as re-letter the remaining notes accordingly.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	David Fountain, Executive VP and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, WT 6A–K, Knoxville, TN 37902.
NRC Project Manager, Telephone Number	Kimberly Green, 301–415–1627.

Wolf Creek Nuclear Operating Corporation; Wolf Creek Generating Station, Unit 1; Coffey County, KS

Docket Nos.	50–482.
Application date	July 31, 2024.
ADAMS Accession No.	ML24213A335.
Location in Application of NSHC	Pages 15–17 in Attachment I.
Brief Description of Amendments	The proposed amendment would revise Technical Specification (TS) 3.2.1, ''Heat Flux Hot Channel Factor ($F_Q(Z)$) (F_Q Methodology),'' and TS 5.6.5, ''Core Operating Limits Report (COLR),'' to implement the methodology from WCAP–17661–P–A, Revision 1, ''Improved RAOC [Relaxed Axial Offset Control] and CAOC [Constant Axial Offset Control] F_Q Surveillance Technical Specifications.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Chris Johnson, Corporate Counsel Director, Evergy, One Kansas City Place, 1KC-Missouri HQ 16, 1200 Main Street, Kansas City, MO 64105.
NRC Project Manager, Telephone Number	Samson Lee, 301–415–3168.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last monthly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed NSHC determination, and opportunity for a hearing in connection with these actions, were published in the **Federal Register** as indicated in the safety evaluation for each amendment.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that

assessment, it is so indicated in the safety evaluation for the amendment.

For further details with respect to each action, see the amendment and associated documents such as the Commission's letter and safety evaluation, which may be obtained using the ADAMS accession numbers indicated in the following table. The safety evaluation will provide the ADAMS accession numbers for the application for amendment and the **Federal Register** citation for any environmental assessment. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

LICENSE AMENDMENT ISSUANCES

Arizona Public Service Company, et al; Palo Verde Nuclear Generating Station, Units 1, 2, and 3; Maricopa County, AZ	
Docket Nos.	50–528, 50–529, 50–530.
Amendment Date	August 20, 2024.
ADAMS Accession No.	ML24208A061.
Amendment Nos.	224 (Unit 1), 224 (Unit 2), and 224 (Unit 3).
Brief Description of Amendments	The amendments revised Technical Specification (TS) 3.5.1, ''Safety Injection Tanks (SITs)—Operating''; TS 3.5.2, ''Safety Injection Tanks (SITs)—Shutdown''; and TS 3.6.5, ''Containment Air Temperature.'' Specifically, the changes revised the SIT volumes as design values expressed in cubic feet from the loss-of-coolant accident analyses with no instrument uncertainties included. Additionally, the changes revised the containment average air temperature limiting condition for operation limit to reflect the design-basis accident analytical limit without instrument uncertainty.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Constellation Energy Generation, LLC; Braidwood Station, Units 1 and 2; Will County, IL	
Docket Nos.	50–456, 50–457.
Amendment Date	September 10, 2024.
ADAMS Accession No.	ML24164A003.
Amendment Nos.	235 (Unit 1), 235 (Unit 2).
Brief Description of Amendments	The amendments revised Technical Specification Surveillance Requirement 3.7.9.2 to allow an ultimate heat sink temperature of less than or equal to 102.8°F through September 30, 2024.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Duke Energy Carolinas, LLC; Oconee Nuclear Station, Units 1, 2, and 3; Oconee County, SC	
Docket Nos.	50–269, 50–270, 50–287.
Amendment Date	August 26, 2024.
ADAMS Accession No.	ML24145A178.
Amendment Nos.	430 (Unit 1), 432 (Unit 2), and 431 (Unit 3).
Brief Description of Amendments	The amendments revised Technical Specification 5.5.2, ''Containment Leakage Rate Testing Program,'' by allowing a one-time extension to the 10-year frequency of the containment integrated leakage rate test (ILRT). The amendments permit the existing ILRT frequency to be extended from 10 years to approximately 12 years for all three Oconee units.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Indiana Michigan Power Company; Donald C. Cook Nuclear Plant, Units 1 and 2; Berrien County, MI	
Docket Nos.	50–315, 50–316.
Amendment Date	September 3, 2024.
ADAMS Accession No.	ML24225A002.
Amendment Nos.	363 (Unit1), 344 (Unit 2).
Brief Description of Amendments	The amendments revised Technical Specification (TS) 3.8.1, ''AC [Alternating Current] Sources—Operating,'' by adding a footnote for TS 3.8.1, Required Action A.3, to allow a one-time completion time extension from 72 hours to 288 hours to support the replacement of the 12AB (Train B) Loop Feed Enclosure and associated bus for the Train B reserve feed preferred power source.
Public Comments Received as to Proposed NSHC (Yes/No).	No.
Southern Nuclear Operating Company, Inc.; Joseph M. Farley Nuclear Plant, Units 1 and 2; Houston County, AL	
Docket Nos.	50–348, 50–364.
Amendment Date	August 29, 2024.
ADAMS Accession No.	ML24242A133.
Amendment Nos.	250 (Unit 1), 247 (Unit 2).

LICENSE AMENDMENT ISSUANCES—Continued

Brief Description of Amendments	The amendments revised the Joseph M. Farley, Units 1 and 2, Renewed Facility Operating License Technical Specification (TS) 3.6.5, ''Containment Air Temperature,'' Actions upon exceeding the TS 3.6.5 Limiting Condition for Operation (LCO) limit of containment average air temperature ≤120 degrees Fahrenheit (°F) and removes an expired LCO Note. Specifically, the amendments relocate existing TS 3.6.5 Required Action A.1 as Required Action A.3 and revises the associated Completion Time and adds a clarifying Completion Time Note, adds Required Actions and Completion Times A.1 and A.2, for Condition A when containment average air temperature is not within the LCO limit.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Tennessee Valley Authority; Watts Bar Nuclear Plant, Units 1 and 2; Rhea County, TN

Docket Nos.	50–390, 50–391.
Amendment Date	August 27, 2024.
ADAMS Accession No.	ML24218A144.
Amendment Nos.	169 (Unit 1), 75 (Unit 2).
Brief Description of Amendments	The amendments revised the Watts Bar Nuclear Plant, Units 1 and 2, Technical Specification Surveillance Requirement 3.9.5.1 to reduce the minimum required flow rate for circulating reactor coolant with one residual heat removal loop in operation from 2,500 gallons per minute (gpm) to 2,000 gpm.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Virginia Electric and Power Company; Surry Power Station, Unit Nos. 1 and 2; Surry County, VA

Docket Nos.	50–280, 50–281.
Amendment Date	August 23, 2024.
ADAMS Accession No.	ML24219A237.
Amendment Nos.	319 (Unit 1), 319 (Unit 2).
Brief Description of Amendments	The amendments revised the Surry Power Station, Unit Nos. 1 and 2, technical specifications to adopt Technical Specifications Task Force (TSTF) Traveler TSTF– 577, Revision 1, ''Revised Frequencies for Steam Generator Tube Inspections'' related to steam generator tube inspection and reporting changes based on operating history.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX

Docket Nos.	50–445, 50–446.
Amendment Date	August 20, 2024.
ADAMS Accession No.	ML24179A077.
Amendment Nos.	189 (Unit 1) ,189 (Unit 2).
Brief Description of Amendments	The amendments revised Technical Specification 3.8.1, Required Action B.4, to extend the allowed outage time for an inoperable emergency diesel generator from 72 hours to 14 days.
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Vistra Operations Company LLC; Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2; Somervell County, TX

Docket Nos.	50–445, 50–446.
Amendment Date	August 28, 2024.
ADAMS Accession No.	ML24194A133.
Amendment Nos.	190 (Unit 1) and 190 (Unit 2).
Brief Description of Amendments	The amendments revised technical specifications to adopt Technical Specifications Task Force (TSTF) Traveler TSTF–589, ''Eliminate Automatic Diesel Generator Start During Shutdown.''
Public Comments Received as to Proposed NSHC (Yes/No).	No.

Dated: September 24, 2024.

For the Nuclear Regulatory Commission.

Aida Rivera-Varona,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2024–22249 Filed 9–30–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 04008907; NRC–2024–0170]

United Nuclear Corporation; License Amendment Application

AGENCY: Nuclear Regulatory Commission.

ACTION: Opportunity to comment; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received an application from United Nuclear Corporation (UNC), a subsidiary of General Electric (GE) for amendment of Source Material License No. SUA–1475, Docket No. 04008907, which authorizes the licensee to possess byproduct

material in the form of uranium waste tailings and other byproduct wastes generated by the licensee's past milling operations located at: 1051 State Highway 566, Gallup, New Mexico 87305. In addition to corrections to the license that have been approved in previous Safety Evaluation Reports, the licensee requests changes to the dates in Condition 35 of the license which would extend the projected date from 2019 to 2038 for emplacement of the final radon barrier; extend the projected date for placement of the erosion protection from 2019 to 2038; and to extend the completion of the groundwater corrective actions from 2018 to 2036.

DATES: Submit comments by December 2, 2024. A request for a hearing or petition for leave to intervene must be filed by December 2, 2024.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2024–0170. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: James Smith, Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6103; email: *James.Smith@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2024–0170 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–2024–0170.
- *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 application is available in ADAMS under Accession No. ML24135A218.
- *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.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2024–0170 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

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

II. Introduction

The NRC has received, by letter dated May 14, 2024, (ADAMS Accession No. ML24135A218), an application to amend Source Materials License No. SUA–1475 (the UNC license) for the UNC Church Rock Mill site located in New Mexico. Specifically, UNC requested to extend the projected dates for (1) the completion of groundwater corrective actions, (2) the emplacement of the final radon barrier and erosion protection, and (3) completion of the ground water corrective actions, for the UNC Church Rock Mill Site. UNC is requesting an amendment to Source Material License No. SUA–1475, Docket No. 04008907, for License Conditions 35.A(1), which would extend the projected date from 2019 to 2038 for emplacement of the final radon barrier; condition 35.B(1) to extend the projected date for placement of the erosion protection from 2019 to 2038; and condition 35.B(2) to extend the completion of the of groundwater corrective actions from 2018 to 2036.

III. Opportunity To Comment and Opportunity To Request a Hearing and Petition for Leave To Intervene

Prior to making a final determination on this, the UNC's second request to extend the date for emplacing the final radon barrier and the erosion protection, the NRC is providing an opportunity for public participation required under criterion 6A(2) of Appendix A of part 40 to title 10 of the *Code of Federal Regulations,* through the provision of this opportunity to provide comments. An NRC administrative completeness review found the application acceptable for a technical review. Prior to making a licensing decision on the request, the NRC will need to evaluate the proposal against the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a technical evaluation report.

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. If a petition is filed, the presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to

participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and on the NRC's public website at *https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate.*

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056) and on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html.*

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* After a digital ID certificate is obtained and a docket created, the participant must submit adjudicatory documents in Portable Document Format. Guidance on submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)–(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

Dated: September 26, 2024.

For the Nuclear Regulatory Commission.

Randolph W. Von Till,

Chief, Uranium Recovery and Materials Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2024–22479 Filed 9–30–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–395; NRC–2023–0152]

Dominion Energy South Carolina, Inc.; Virgil C. Summer Nuclear Station, Unit No. 1; Notice of Intent To Prepare Environmental Impact Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will prepare a supplemental environmental impact statement (SEIS) to evaluate the environmental impacts for the subsequent license renewal (SLR) of Renewed Facility Operating License No. NPF–12 for Virgil C. Summer Nuclear Station, Unit No. 1 (V.C. Summer).

DATES: October 1, 2024.

ADDRESSES: Please refer to Docket ID NRC–2023–0152 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

• *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2023–0152. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if it is available in ADAMS) is provided the first time that it is referenced.

• *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.

• *Public Library:* A copy of the SLR application for V.C. Summer, including the environmental report (ER), is available for public review at the following public library location: Fairfield County Library, 300 West Washington St., Winnsboro, SC 29180.

FOR FURTHER INFORMATION CONTACT: Kim Conway, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1335; email: *Kimberly.Conway@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 17, 2023, Dominion Energy South Carolina, Inc. submitted to the NRC an application for SLR of Renewed Facility Operating License No. NPF–12 for V.C. Summer, for an additional 20 years of operation (ADAMS Accession No. ML23233A172). This submission initiated the NRC's proposed action of determining whether to grant the SLR application. The V.C. Summer unit is a pressurized-water reactor designed by Westinghouse and is located near Jenkinsville, South Carolina. The current renewed operating license for V.C. Summer expires August 6, 2042. The SLR application was submitted pursuant to part 54 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' and seeks to extend the renewed facility operating license for V.C. Summer to midnight on August 6, 2062.

On November 3, 2023, the NRC published a notice of intent to conduct a scoping process and prepare a site-specific environmental impact statement (EIS) (88 FR 75627). Consistent with Commission Legal Issuance (CLI)–22–03, the SLR application contained an ER in which the impacts of all environmental issues were evaluated on a site-specific basis, and the NRC staff initiated a review to address the impacts for all such issues during the SLR period in a site-specific EIS. The NRC staff stated in the original notice of intent that it would first conduct a scoping process for the site-specific EIS and then prepare a draft site-specific EIS for public comment. During the 30-day scoping period, the NRC received comments through written correspondence and two public meetings.

II. Discussion

On August 6, 2024, the NRC published a final rule in the **Federal Register** (89 FR 64166) revising its environmental protection regulations in 10 CFR part 51, ''Environmental protection regulations for domestic licensing and related regulatory functions.'' The final rule updates the potential environmental impacts associated with the renewal of an operating license for a nuclear power plant for up to an additional 20 years for either an initial license renewal or one period of SLR. Revision 2 to NUREG–1437, ''Generic Environmental Impact Statement for License Renewal of Nuclear Plants'' (LR GEIS) (ADAMS Package Accession No. ML24087A133) provides the technical basis for the final rule. The revised LR GEIS supports the updated list of environmental issues and associated environmental impact findings contained in table B–1 in appendix B to subpart A of the revised 10 CFR part 51 for both initial license renewals and one period of SLR.

The final rule became effective on September 5, 2024, 30 days after its publication in the **Federal Register**, and staff must now consider the new and modified issues, as applicable, in its license renewal EISs. Accordingly, the NRC staff intends to prepare a plant-specific supplement to the LR GEIS for the V.C. Summer SLR application. In contrast to the previously planned site-specific EIS, the SEIS will rely on the LR GEIS determinations for Category 1 (generic) issues that apply to all or a distinct subset of nuclear power plants. Site-specific information will be considered only on Category 2 (site-specific) issues and will be screened for new and significant information on Category 1 issues.

The NRC staff has determined that the original scoping period conducted for a site-specific EIS review is sufficient to include any comments that would have been submitted for a SEIS that relies on site-specific determinations for Category 2 issues and on the LR GEIS generic determinations for Category 1 issues; therefore, an additional scoping period will not be conducted. All information submitted during the 30-day scoping period that began November 3, 2023, will be considered and evaluated as appropriate during the development of the staff's SEIS for the V.C. Summer SLR. When issued, the draft SEIS will be made available for public comment in accordance with 10 CFR 51.73.

Dated: September 26, 2024.

For the Nuclear Regulatory Commission.

Stephen Koenick,

Chief, Environmental Project Management Branch 1, Division of Rulemaking, Environment, and Financial Support, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2024–22478 Filed 9–30–24; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2024–0171]

Performance Review Boards for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointments.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced appointments to the NRC Performance Review Board (PRB) that is responsible for making recommendations on performance appraisal ratings and performance awards for NRC Senior Executives and Senior Level System employees and appointments to the NRC PRB Panel responsible for making recommendations to the appointing and awarding authorities for NRC PRB members.

DATES: October 1, 2024.

ADDRESSES: Please refer to Docket ID NRC–2024–0171 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–2024–0171. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document

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

• *NRC's PDR:* 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.

FOR FURTHER INFORMATION CONTACT: Jennifer M. Golder, Secretary, Executive Resources Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–0741, email: *Jennifer.Golder@nrc.gov.*

SUPPLEMENTARY INFORMATION: The following individuals appointed as members of the NRC PRB are responsible for making recommendations to the appointing and awarding authorities on performance appraisal ratings and performance awards for Senior Executives and Senior Level System employees:

- Marila Gavrilas, Ph.D., Co-Chair, Executive Director for Operations
- Brooke P. Clark, Co-Chair, General Counsel
- Owen F. Barwell, Chief Financial Officer
- James C. Corbett, Director, Office of Administration
- Craig G. Erlanger, Acting Director, Office of Nuclear Security and Incident Response
- John W. Lubinski, Director, Office of Nuclear Material Safety and Safeguards
- John D. Monninger, Regional Administrator, Region IV
- Scott A. Morris, Deputy Executive Director for Reactor and Preparedness Programs, Office of the Executive Director for Operations
- David L. Pelton, Director, Office of Enforcement
- Andrea D. Veil, Director, Office of Nuclear Reactor Regulation

Jennifer M. Golder, Chief Human Capital Officer and Vonna L. Ordaz, Director, Office of Small Business and Civil Rights, will serve as non-voting advisory members of the PRB.

The following individuals will serve as members of the NRC PRB Panel that was established to review appraisals and make recommendations to the appointing and awarding authorities for NRC PRB members:

- Mary B. Spencer, Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel
- Scott C. Flanders, Chief Information Officer
- David L. Skeen, Director, Office of International Programs

All appointments are made pursuant to chapter 43 of title 5 of the United States Code, section 4314.

Dated: September 26, 2024.

For the Nuclear Regulatory Commission.

Jennifer M. Golder,

Secretary, Executive Resources Board.

[FR Doc. 2024–22546 Filed 9–30–24; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101193; File No. SR–OCC–2024–010]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Partial Amendment No. 1 and Designation of Longer Period for Commission Action on Proposed Rule Change by the Options Clearing Corporation To Establish a Margin Add-On Charge That Would Be Applied to All Clearing Member Accounts To Help Mitigate the Risks Arising From Intraday and Overnight Trading Activity

September 25, 2024.

On July 25, 2024, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change SR–OCC–2024–010 pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 [2] thereunder to establish a margin add-on charge that would be applied to all Clearing Member accounts to help mitigate the risks arising from intraday and overnight trading activity. Proposed rule change SR–OCC–2024–010 was published for public comment in the **Federal Register** on August 12, 2024.[3] The Commission has received comments regarding the proposed rule change SR–OCC–2024–010.[4]

On September 4, 2024, OCC amended SR–OCC–2024–010 to include as Exhibit 2 the Information Memorandum 55123, published by OCC on its website on August 30, 2024, and informing OCC's membership of the details of the margin add-on charge.[5] The amendment did not change the purpose or basis of proposed rule change SR–OCC–2024–010, as modified by Partial Amendment No. 1 (hereinafter, the ''Proposed Rule Change'').

I. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the Proposed Rule Change, as modified by Partial Amendment No. 1, is consistent with the Exchange 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-regulations/self-regulatory-organization-rulemaking*); or

• Send an email to *rule-comments@sec.gov*. Please include file number SR–OCC–2024–010 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–2024–010. 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 of submission. The Commission will post all comments on the Commission's website (*https://www.sec.gov/rules-regulations/self-regulatory-organization-rulemaking*). Copies of the submission, all subsequent amendments, all written statements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 100664 (Aug. 6, 2024), 89 FR 65695 (Aug. 12, 2024) (File No. SR–OCC–2024–010) (''Notice of Filing'').

[4] Comments on proposed rule change SR–OCC–2024–010 are available at *https://www.sec.gov/comments/sr-occ-2024-010/srocc2024010.htm.*

[5] *See* OCC Info Memo 55123, available at *https://infomemo.theocc.com/infomemos?number=55123.*

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–2024–010 and should be submitted on or before October 22, 2024.

II. Extension

Section 19(b)(2)(i) of the Exchange Act[6] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, 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 unless the Commission extends the period within which it must act as provided in Section 19(b)(2)(ii) of the Exchange Act.[7] Section 19(b)(2)(ii) of the Exchange Act allows the Commission to designate a longer period for review (up to 90 days from the publication of notice of the filing of a proposed rule change) if the Commission finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents.[8]

The 45th day after publication of the Notice of Filing is September 26, 2024. In order to provide the Commission with sufficient time to consider the Proposed Rule Change, the Commission finds that it is appropriate to designate a longer period within which to take action on the Proposed Rule Change, and therefore is extending this 45-day time period.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Exchange Act,[9] designates November 10, 2024, as the date by which the Commission shall either approve, disapprove, or institute proceedings to determine whether to disapprove the Proposed Rule Change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–22416 Filed 9–30–24; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101189; File No. SR–OCC–2024–013]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change by The Options Clearing Corporation Concerning Modifications to its By-Laws and Rules Primarily To Discontinue Certain Outmoded or Unused Products and Services

September 25, 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 13, 2024, The Options Clearing Corporation (''OCC'' or ''Corporation'') 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 primarily by OCC. 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 make modifications to its By-Laws and Rules primarily to discontinue certain outmoded or unused products and services.

Proposed changes to OCC's By-Laws are contained in Exhibit 5A [sic] that OCC provided as part of File No. SR–OCC–2024–013. Proposed changes to OCC's Rules are contained in Exhibit 5B [sic] that OCC provided as part of File No. SR–OCC–2024–013. Material proposed to be added is underlined and material proposed to be deleted is marked in strikethrough text.

All terms with initial capitalization that are not defined herein have the same meaning as set forth in the OCC By-Laws and Rules.[3]

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.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC is the sole clearing agency for standardized equity options listed on national securities exchanges registered with the Commission. OCC also clears certain stock loan and futures transactions. In its role as a clearing agency, OCC acts as a central counterparty (''CCP'') guarantying all contracts it clears, meaning OCC becomes the buyer to every seller and the seller to every buyer (or the lender to every borrower and the borrower to every lender, in the case of stock loan transactions). As a CCP, OCC maintains a platform called ENCORE consisting of OCC's core clearing, risk management, and data management applications launched in 2000. Among other functions, ENCORE serves as OCC's real-time processing engine, receiving trade and post-trade data from a variety of sources on a transaction-by-transaction basis to facilitate OCC's clearance and settlement operations. OCC intends to retire ENCORE and implement a new, updated clearance and settlement system, known as ''Ovation,'' that will leverage more current technology and enhanced security features. Ovation is designed to provide a more robust solution to meet market participants' needs and OCC's responsibilities, including in OCC's role as a systemically important financial market utility. As part of the transition to the Ovation system, OCC is considering which features of ENCORE should be carried over to Ovation and

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[6] 15 U.S.C. 78s(b)(2)(i).

[7] 15 U.S.C. 78 s(b)(2)(ii).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC's By-Laws and Rules can be found on OCC's public website: *https://www.theocc.com/Company-Information/Documents-and-Archives/By-Laws-and-Rules.*

which should be retired, as well as other updates to its By-Laws and Rules to conform to current capability and support future requirements.

1. Purpose

This proposed change by OCC would modify the By-Laws and Rules to address certain outmoded or unused functions or products that OCC proposes to discontinue. OCC also proposes certain miscellaneous changes to provide greater clarity to its By-Laws and Rules.[4]

First, OCC proposes to no longer facilitate the settlement of commissions and fees owed between Clearing Members that are party to a Clearing Member Trade Assignment (''CMTA'') arrangement. OCC members have not used or expressed an interest in having OCC facilitate such settlement of commissions and fees. Second, OCC proposes to delete provisions related to OTC option products because these OTC option products are not currently traded.

Third, OCC proposes to no longer require that Clearing Members maintain records of both parties to a trade because trade counterparty information is not necessary for OCC's clearing and settlement purposes. Accordingly, OCC has not developed Ovation to aggregate such information and provide it to Clearing Members for purposes of compliance with this rule. Implementing this non-clearing data element in Ovation would require significant investment of resources to develop functionality that could impact Ovation's release timeline.

Fourth, OCC proposes to amend its Rules to provide that when a Clearing Member wants to ''give-up'' one or more positions in cleared contracts that are futures or futures options to another Clearing Member, it need not designate the specific account of the Given-Up Clearing Member to which such positions must be allocated. Rather, the Given-Up Clearing Member will be able to indicate the account to which it wishes the futures or futures options positions to be allocated in order to provide more flexibility to Clearing Members and better facilitate give-up allocations to the appropriate account.

Fifth, OCC proposes to clarify that, when an opening or closing indicator is not included on a trade for an options or a futures contract, OCC will default the trade to an opening position for all account types, including market makers. Defaulting to an open position when there is no indicator will help ensure that an existing position is not inadvertently closed out.

Sixth, OCC proposes to amend its Rules to reflect that when a particular class of exercised options is subject to broker-to-broker settlement, the settlement obligation will not be considered discharged until both the Delivering and Receiving Clearing Member submit matching notices as to the number of units of the underlying security delivered (received). This change will better reflect the manner in which OCC currently handles broker-to-broker settlements.

Seventh, OCC also proposes to delete the ''associated Market Maker'' account subtype, which is not currently used by Clearing Members.

Proposed Rule Changes

As noted, this proposed change by OCC is primarily designed to modify the By-Laws and Rules to address certain outmoded or unused functions or products that OCC proposes to discontinue, particularly as OCC works toward its transition to a new core clearing system. ENCORE is OCC's existing clearing system, and it was launched in 2000. Since then, it has operated as OCC's real-time processing engine to receive trade and post-trade data from a variety of sources on a transaction-by-transaction basis, maintain clearing member positions, calculate margin and clearing fund requirements, and provide reporting to OCC staff, regulators, and Clearing Members. As stated in the Commission's notice of no objection to OCC's advance notice filing related to adoption of cloud infrastructure for new clearing, risk management and data management applications,[5] OCC's objective is the eventual retirement of ENCORE and its replacement with a resilient successor clearing system, which OCC calls Ovation. In connection with this transition by OCC to a successor clearing system and the related development work to design the successor system to support an appropriate scope of operations, OCC plans to discontinue certain existing functions or products that are outmoded or unused, as described in more detail below.

The proposed rule change would amend the By-Laws and Rules to: (i) discontinue OCC's facilitation of the settlement of commissions and fees owed between Clearing Members that are party to a CMTA arrangement; (ii) remove provisions related to OTC option products that are inoperative; (iii) no longer require that Clearing Members must maintain records of both parties to a trade; (iv) provide that a Giving-Up Clearing Member in connection with futures and futures options is not required to provide instructions that identify the designated account of the Given-Up Clearing member; (v) clarify and make uniform across all account types the default treatment of confirmed trades in futures and options as opening transactions; (vi) clarify its rules about the discharge of settlement obligations when OCC directs that exercise and assignment activity for a specific class of options will be subject to broker-to-broker settlement; and (vii) delete the Associated Market-Maker account type.

OCC to No Longer Facilitate Settlement of Commissions and Fees Between CMTA Clearing Members

OCC's Rules 407 and 504 currently provide for a voluntary service at the election of Clearing Members that are parties to a CMTA arrangement whereby OCC will facilitate the settlement of fees and commissions between such Clearing Members, subject to certain conditions. OCC amended its Rules in 2010 to provide for this service.[6] The service has not been used by Clearing Members since 2016, and Clearing Members have not expressed an interest in using the settlement of commissions and fees service provided by OCC in the future. As a result of the lack of Clearing Member interest in this service, OCC proposes to decommission it such that it will also not need to be supported in OCC's successor clearing system. All other aspects of OCC's Rules related to CMTA arrangements would remain unchanged.

Accordingly, OCC proposes to renumber paragraph (a)(1) to (a) and to delete paragraph (a)(2) from Rule 407, which provides that Clearing Members that are parties to a CMTA arrangement may elect to authorize OCC to settle fees and commissions owed by the Carrying Clearing Member to the Executing Clearing Member in respect of transfers effected pursuant to that arrangement.[7] OCC also proposes to delete paragraph (e) of Rule 504, which corresponds to current Rule 407(a)(2), generally

[4] OCC is also proposing these changes, with a view toward its planned transition to a new core clearing system, which OCC calls Ovation.

[5] *See* Securities Exchange Act Release No. 96113 (Oct. 20, 2022), 87 FR 64824 (Oct. 26, 2022) (File No. SR–OCC–2021–802).

[6] *See* Securities Exchange Act Release No. 63120 (Oct. 15, 2010), 75 FR 65538 (Oct. 25, 2010) (File No. SR–OCC–2010–017).

[7] Rule 407(a)(2) further provides, among other things, that Clearing Members making such election shall specifically register that aspect of their CMTA arrangement with OCC, sets forth the authority granted to OCC for Clearing Members making such an election, and specifies that any such election becomes effective once accepted by OCC's systems.

providing that OCC, as agent, is authorized to effect non-guaranteed settlement of fees and commissions owed by a Carrying Clearing Member to an Executing Clearing Member for transfers effected pursuant to their registered CMTA arrangement, provided that the CMTA registration authorizes OCC to effect such settlements.[8] OCC proposes to mark paragraph (e) of Rule 504 as reserved. In addition, OCC proposes to delete the final sentence of Rule 504(g), which provides that OCC shall have no obligation to effect settlement of fees and commissions as provided in Rule 407 if either the Executing Clearing Member or the Carrying Clearing Member has been suspended by OCC.

Over-the-Counter (''OTC'') Options Provisions To Be Removed

OCC's By-Laws and Rules currently permit it to clear and settle certain OTC options products, specifically OTC index options on the S&P 500 index.[9] In connection with this service, OCC's By-Laws and Rules were modified in various places to provide for the clearance and settlement of such OTC index options. Although OCC has only ever cleared OTC index options on the S&P 500 index, OCC's By-Laws and Rules were designed to support the clearance and settlement of additional OTC options using the same legal and operational framework. However, OCC has not cleared and settled an OTC option since 2014 and there is no open interest in OTC options. Clearing Members have also not expressed interest in the OTC option clearance settlement services.

As a result, OCC proposes to remove all provisions from its By-Laws and Rules[10] related to the clearance and settlement of OTC options. These changes include the deletion of the entire definitions and references to the terms ''OTC options,'' ''OTC index option,'' ''OTC Trade Source,'' ''OTC Trade Source Rules'', ''Backloaded OTC option,'' and ''OTC Option Auction,'' as well as text accompanying these terms that describe OCC's role in the clearance and settlement of OTC options in the following By-Law and Rule provisions: (i) Article I of the By-Laws (Definitions);[11] (ii) Article VI of the By-Laws, Section 1, Interpretation and Policies .01(a), the entirety of Section 3, Interpretations and Policies .09, Section 10(b) and (g), and Section 27(a) and (b); (iii) Article XVII of the By-Laws, Introduction, Section 1 (Definitions),[12] Section 3(h) and Interpretation and Policies .01 (deleted entirely), Section 4(a)(2), Section 5(a), and the entirety of Section 6 (relating to OTC Index options); (iv) Rule 201(b)(6) (deleted entirely); (v) Rules 401(a), (a)(1)(i), (b), (d), (e), (f) and (g); (vi) Rule 405; (vii) Rule 406; (viii) Rule 407(l) (deleted entirely); (ix) Rule 408(a); (x) Rule 611(a), (b), and (d) (deleted entirely); (xi) Rule 801(b); (xii) Rule 803 Interpretation and Policy .01; (xiii) Rule 804; (xiv) Rule 1003 Interpretation and Policy .02 (deleted entirely); (xv) Rule 1104 Interpretation and Policy .03 (deleted entirely); (xvi) Rule 1105; (xvii) Rule 1106(e)(2) (deleted entirely), and Interpretation and Policy .01; (xviii) Chapter XVIII of the Rules, Introduction; (xix) Rule 1804(b), (c),[13] and Interpretation and Policy .03 (deleted entirely). OCC is not proposing changes to these provisions (unless otherwise described in this proposed rule change) other than the removal of provisions that relate to OTC options. For example, OCC proposes to modify the definition of the term ''confirmed trade'' in the By-Laws only to delete the provision relating to OTC options.[14]

To the extent OCC may plan to support the clearance and settlement of OTC options again in the future based on Clearing Member demand for such services, OCC would submit a proposed rule change with the Commission pursuant to Section 19(b) of the Exchange Act to reincorporate changes to its By-Laws or Rules as may be necessary for that purpose.[15]

Records of Both Parties to a Transaction to No Longer Be Required

Rule 208 currently requires, among other things, that every Clearing Member must keep records showing all confirmed trade data required pursuant to the OCC's By-Laws and Rules, including confirmed trade information reported to OCC under Rule 401. Rule 401(a)(1)(i) requires that confirmed trade details include ''the identity of the Purchasing Clearing Member and the Writing Clearing Member to the transaction.'' As a result, Clearing Members are currently required to maintain records of the identity of the Clearing Members who are parties to a confirmed trade. Prior to the adoption of electronic trading, these records were maintained to facilitate the efficient clearing and settlement of confirmed trades and reconcile counterparty settlement obligations to avoid settlement delays and disputes. OCC currently provides such information through Encore for purposes of compliance with this Rule.

However, with the widespread adoption of electronic trading and the development of supporting market infrastructure, OCC's clearing processes and capabilities have evolved to no longer require the identities of the counterparty Clearing Members for the purposes of clearing and settlement. Therefore, OCC would no longer require that Clearing Members maintain such records in Ovation.[16] Implementing this non-clearing data element and developing this functionality would require OCC to invest significant resources that could have an impact on Ovation's release timeline. As a result, OCC proposes to modify Rule 208 to

[8] Rule 504(e) further provides, among other things, that aggregate amounts to be settled are calculated based on entries made by the Executing Clearing Member, that settlements of the fees/commissions will be effected on the business days first succeeding the business day on which the Executing Clearing Member entered the information into OCC's systems.

[9] *See* Securities Exchange Act Release No. 68434 (December 14, 2012), 77 FR 75243 (December 19, 2012) (SR–OCC–2012–14).

[10] OCC notes that it is not proposing in this proposed rule change to eliminate the reference to OTC options in Rule 805 (Expiration Exercise Procedure) because it is proposing to delete such reference in another rule filing with the Commission.

[11] OCC proposes to delete references to OTC options and related terms throughout the definitions in Article I of the By-Laws, including ''Backloaded OTC option,'' ''OTC Index Option Clearing Member,'' ''origination date,'' ''OTC index option,'' ''OTC option,'' ''OTC Trade Source,'' ''OTC Trade Source Rules.'' OCC also proposes to delete text from the definitions of the terms ''Class'', ''Clearing Member'', ''Index Multiplier'', ''Index Value Determinant'', ''Trade Date'', and ''Variable Terms'' that define what those terms mean with respect to OTC options. In addition, OCC proposes to delete text from Interpretation and Policies .01 to Section C of Article I of the By-Laws providing that the term '' 'Exchange transaction' was removed from the By-Laws and Rules and replaced with the term 'confirmed trade' to reflect the expansion of the Corporation's clearing activities into OTC options'' because such sentence is no longer necessary given the removal of provisions related to OTC options. OCC is not proposing to revert back to the use of ''Exchange transaction'' in its By-Laws and Rules because OCC believes that Clearing Members are familiar with the term ''confirmed trade.''

[12] OCC proposes to delete OTC option related provisions in the following definitions in Article XVII, Section 1: (i) ''class of options,'' (ii) ''current underlying interest value,'' (iii) ''expiration date,'' (iv) ''expiration time'' (deleted entirely), (v) ''reporting authority,'' and (vi) ''series of options.''

[13] OCC proposes to delete Rule 1804(c)(1) in its entirety because it relates solely to OTC options. OCC proposes to renumber current Rule 1804(c)(2) and (3) as (c)(1) and (2).

[14] Specifically, OCC proposes that the definition of ''confirmed trade'' would no longer include a cleared contract affirmed through the facilities of an OTC Trade Source and submitted to the OCC for clearance.

[15] 15 U.S.C. 78s(b).

[16] OCC notes that Clearing Members continue to debate whether the counterparty information should be maintained given past trading precedent when this information was required. Today, the trade counterparty information is no longer required for clearing purposes. However, OCC may reconsider providing this information in the future.

provide, with respect to parties to a transaction, that a Clearing Member must keep records showing all confirmed trade data required pursuant to OCC's By-Laws and Rules, including confirmed trade information reported to OCC under Rule 401 ''except for the identity of the counterparty Clearing Member.'' This change would require Clearing Members to only record trade information relevant for clearing and settlement purposes. OCC notes that because all confirmed trades in option contracts that are accepted by OCC are novated such that OCC becomes the buyer to the seller and the seller to the buyer, it is not necessary or relevant for clearance and settlement purposes to require a Clearing Member to record the identity of another Clearing Member who was originally counterparty to the transaction.

Discontinue the Requirement To Identify Designated Accounts of Given-Up Clearing Members

Rule 408 provides that one or more positions in cleared contracts may be allocated from the designated account of a Giving-Up Clearing Member to the designated account of a Given-Up Clearing Member. Currently, this system for allocation of positions is only available in connection with positions in futures contracts and options on futures contracts that are cleared and settled by OCC. These allocations are post-trade instructions to OCC that are entered by one Clearing Member, called the Giving-Up Clearing Member, to direct OCC that a position in a cleared contract in one of the OCC accounts of that Giving-Up Clearing Member should be moved to the designated account of the Given-Up Clearing Member. Currently, the Rules allow the Giving-Up Clearing Member to designate the account of the Given-Up Clearing Member to which the position should be allocated.

OCC proposes to add rule text to the header for Rule 408 and elsewhere in Rule 408(a) to make clear that this allocation of positions functionality is only available for futures and options on futures. Currently, Rule 408 states that the allocation functionality is available for ''cleared contracts,'' which could be read to include securities options contracts notwithstanding that the allocation functionality is currently only available for futures and options on futures, and OCC plans for the same to be true in connection with the successor Ovation system.[17]

OCC also proposes to remove reference to the term ''designated account'' within the provisions of Rule 408 (a) and (b) from certain instances that refer to the Given-Up Clearing Member to clarify that the Giving-Up Clearing Member would no longer be required to specify the designated account of the Given-Up Clearing Member to which the cleared contract position should be moved. OCC proposes to then add a sentence in Rule 408(b) that would require the Given-Up Clearing Member to designate an account to which the allocation will be made. OCC will then process allocation instructions for Cleared contract positions once the Given-Up Clearing Member has designated an account in which to accept the allocations.

OCC proposes to also remove the last sentence of Rule 408(b) that generally describes OCC's posture in the absence of an allocation agreement,[18] which OCC believes is already addressed as part of paragraphs (b), and (d) of the Rule, and including the text would be duplicative and unnecessary. An allocation instruction, whether direct or provided through a confirmed trade, is a request by the Giving-Up Clearing Members to allocate positions to a Given-Up Clearing Member. Positions would remain in pending status awaiting the designation of an allocation account by the Given-Up Clearing Member to complete processing. Positions would move automatically if an account was designated, and an allocation agreement existed between the Giving-Up Clearing Member and the Given-Up Clearing Member. In all cases Rule 408 would provide that the Giving-Up Clearing Member would be required to allocate the cleared futures or options on futures contract position to a Given-Up Clearing Member. In turn, the Given-Up Clearing Member would be responsible for affirmatively confirming the account to which the cleared contract position should be transferred by OCC before the position would be moved by OCC from the designated account of the Giving-Up Clearing Member to the designated account of the Given-Up Clearing Member.

OCC proposes to also remove all references to ''allocation agreement'' in the text of Rule 408(b), and (d). OCC believes removing this text adds clarity to the rule because the text of Rule 408(c) addresses the registration of allocation agreements with OCC and declares that an allocation agreement would constitute notice of a pre-agreed instruction to OCC by the Given-Up and the Giving-Up Clearing Members for OCC to allocate positions to an account of the Given-Up Clearing Member without further action. If the Given-Up Clearing Member rejects the allocation or if it does not provide affirmative acceptance by the cut-off time, Rule 408 would continue to provide, as it currently does, that the positions will remain in the account of the Giving-Up Clearing Member. This proposed approach puts each Clearing Member, as applicable, in control of the account from which or to which the position in the cleared futures or futures option contract should be moved. OCC believes that this would help reduce the risk of positions being transferred to an account of the Given-Up Clearing Member that the Given-Up Clearing Member does not want to receive them.

Clarify the Default Treatment of Confirmed Trades in Options as Opening Transactions

Rule 401 addresses information that is required to be or that may be reported to OCC in connection with new confirmed trades in options, futures and BOUNDs.[19] For confirmed transactions in options that are transmitted to OCC by an options exchange, OCC does not require as a condition to OCC's acceptance and novation an indication of whether the transaction is an opening or closing transaction. Such information may be included in the confirmed trade information from the exchange, but if it is not included OCC treats the confirmed trade as an opening transaction—which has the effect of increasing the number of option contracts in the option series in the relevant account of the Clearing Member. To clarify this default treatment in Rule 401, OCC is proposing to amend current Interpretation and Policy .01 to Rule 401, which already states that this is the default treatment for confirmed trades that OCC receives in futures for all Clearing Member accounts other than market-maker

[17] OCC also proposes to make similar changes to Rule 408(e) to make clear that the Rule only applies to futures and options on futures contracts. This would be done by inserting the word ''futures'' before references to the word ''options'' in Rule 408(e).

[18] The last sentence of Rule 408(b) currently provides that If the Giving-Up Clearing Member and the Given-Up Clearing Member are not parties to an allocation agreement registered with the Corporation, then the Corporation shall adjust the positions in the respective designated accounts of the Giving-Up and Given-Up Clearing Member in accordance with the allocation instruction only upon receipt of notice from the Given-Up Clearing Member of its affirmative acceptance of the allocation.

[19] The term ''BOUND'' means a security issued by the Corporation pursuant to Article XXIV of the By-Laws and Chapter XXV of the Rules. *See* OCC By-Laws, Article 1.

accounts. In revising Interpretation and Policy .01 to be applicable to confirmed trades in both options and futures, OCC is also proposing to delete the part of the provision that states that it applies the opening transaction default treatment to all accounts other than market-maker accounts. OCC believes that this revision is appropriate in respect of options and futures in Clearing Member market-maker accounts in addition to all other types of Clearing Member accounts because defaulting a trade without an open or close indicator to ''open'' is operationally safer and more prudent and prevents such trades from unintentionally closing an existing position. OCC believes that defaulting to open when there is no open or close indicator should also be consistent across all account types, including Market Makers.

Discharge of Settlement Obligations Under Broker-to-Broker Settlement

Consistent with OCC Rule 901, settlement of exercise and assignment activity in stock options is typically made through the facilities of a correspondent clearing corporation, currently the National Securities Clearing Corporation (''NSCC''). However, in certain situations, including when a particular underlying security becomes ineligible at NSCC, OCC directs that settlement will occur on a broker-to-broker basis under Rule 903. Rule 909 then provides for the notices that the Delivering Clearing Member and Receiving Member must submit to advise OCC of the discharge of the settlement obligation.

Currently, Rule 909 provides that if one of the Clearing Members submits a notice of delivery, payment, or receipt of delivery or payment, and the contraparty fails to respond to such notice within two business days, that failure to respond constitutes the contraparty's acknowledgement that the obligation has been settled as indicated in the submitting Clearing Member's notice, ''provided that the designated delivery date has occurred.'' [20] However, in practice, when OCC directs broker-to-broker settlement, it also directs that if it is not possible for the Delivering Clearing Member to effect delivery of the underlying shares on the designated settlement date, then the settlement obligations of both the Delivering and Receiving Clearing Member will be delayed until such time as OCC designates a new exercise settlement date, settlement method or settlement value,[21] pursuant to OCC's authority under Section 19 of Article VI of the By-Laws (Shortage of Underlying Securities).[22] This directive allows Delivering Clearing Members the opportunity to effect settlement if they have the underlying securities and are able to effect delivery, but delays the settlement obligation when this is not possible. Under Article VI, Section 19 of the By-Laws, such settlement obligation remains delayed until either (i) OCC determines that a sufficient supply of the underlying security has become available to warrant the termination of such action and fixes a new delivery date for the contracts effected by the suspension,[23] or (ii) OCC determines that there is no reasonable likelihood that a sufficient supply of the underlying security will become available within the foreseeable future to permit the Clearing Members affected by such suspension to discharge their obligations by delivery or receipt of the underlying security. In this situation OCC will exercises its authority to fix a cash value to settle the obligation for exercised option contracts, and/or, in the event that the suspended security underlies matured, physically-settled stock futures, terminates all rights and obligations to deliver or receive underlying securities and instead require payment and receipt of the final variation payment to fully discharge the rights and obligation for such matured, physically-settled stock futures.[24]

When such settlement obligation is delayed, the conditions under Rule 909(d) for considering a contraparty's failure to respond when the other Clearing Member marks an obligation settled is not satisfied. Accordingly, OCC proposes to amend Rule 909(d) to remove the provision directing that a contraparty's failure to respond to the other Clearing Member's settlement notice in OCC's system within two business days after such notice was made available to such Clearing Member may be treated as acknowledgement of settlement. In its place, OCC would provide that the contraparty's failure to respond would indicate that the obligation is unsettled and that OCC would maintain that status until such time as either (i) both Delivering and Receiving Clearing Members mutually agree to settle the obligation and notify OCC; or (ii) OCC settles the obligation on behalf of both Delivering and Receiving Clearing Members pursuant to OCC's policies and procedures. As amended, Rule 909(d) would clarify and better align Rule 909 with OCC's practices with respect to shortages of underlying securities under Article VI, Section 19 of the By-Laws.

OCC also proposes to make an associated clarifying change by removing text from the first paragraph of Rule 909 related to the amount received or paid for the underlying security. Currently when OCC directs broker-to-broker settlement, the Delivering and Receiving Clearing Members inform OCC of settlement by submitting notices that specify the number of units of the underlying security delivered or received and equivalent cash amounts received or paid. In practice, however, the cash amounts received or paid are systematically determined and not specified by either Delivering or Receiving Clearing Members. The practice of systematically calculating the cash amounts received or paid allows OCC to reduce operational risk and avoid processing any inaccurate notices entered by Clearing Members. OCC believes that the proposed change would clarify and conform Rule 909 with OCC's current practices.

Elimination of Associated Market Maker Sub-Account Type

Article VI, Section 3(c), of OCC's By-Laws currently allows Clearing Members to use a combined market makers' account to carry the positions of multiple proprietary Market Makers or to carry the positions of multiple associated Market Makers,[25] so long as such accounts are restricted to positions of proprietary Market Makers or associated Market Makers, respectively. Today, the associated Market Maker subaccount type is not used by Clearing Members. As a result, OCC proposes to eliminate the associated Market Maker sub-account type.

Accordingly, OCC proposes to delete the definition of an ''associated Market Maker'' from Article I of the By-Laws and remove provisions in the By-Laws related to associated Market Makers and

[20] OCC Rule 909(d).

[21] *See, e.g.,* Information Memo #53517, *available at https://infomemo.theocc.com/infomemos?number=53517* (exemplative OCC Info Memo directing broker-to-broker settlement).

[22] *See* By-Laws Article VI, Section 19(a)(2)–(3) (providing that OCC may suspend the settlement obligations of exercised options when Clearing Members are unable to deliver the underlying security).

[23] *See id.* Section 19(b).

[24] *See id.* Section 19(c).

[25] An ''associated Market Maker'' is currently defined in Article I of OCC's By-Laws as a person maintaining an account with a Clearing Member as a Market-Maker, specialist, stock market-maker, stock specialist or Registered Trader that is a Related Person of the Clearing Member and shall include any participant, as such, in an account of which 10% or more is owned by an associated Market-Maker, or an aggregate of 10% or more of which is owned by one or more associated Market-Makers.

the ability to establish a combined Market Maker account of associated Market Makers. Specifically, OCC proposes to delete references to an associated Market Maker and the ability to establish a combined Market Maker account from Article VI, Section 3(c) and Interpretation and Policies .03 and .06, and to revise the reference in the first sentence of Interpretations and Policies .06 to refer to Section 3(c). As amended, OCC's By-Laws would, in effect, provide for two, rather than three, combined Market Maker accounts: (i) a combined account limited to Market Makers that are not proprietary Market Makers; and (ii) a combined account limited to proprietary Market Makers.[26]

Implementation Timeframe

OCC will release and implement the proposed change described above into production concurrently with the release of Ovation and the attendant retirement of ENCORE, which is planned to launch no earlier than July of 2025. OCC will announce the implementation date of the proposed change by Information Memorandum posted to its public website at least four weeks prior to implementation. OCC plans to launch Ovation and implement the proposed change no later than December 31, 2025, and OCC will announce another intended implementation date by Information Memorandum posted to its public website if the changes will not be implemented by that date.

2. Statutory Basis

Section 17A(b)(3)(F) of the Exchange Act requires, among other things, that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions, safeguard securities and funds in its custody or control or for which it is responsible, remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination among participants using the clearing agency.[27] In addition, Rule 17Ad–22(e)(21) requires OCC, as a covered clearing agency, to establish, implement, maintain, and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its participants and the markets it serves, and have its management regularly review the efficiency and effectiveness of OCC's clearing and settlement arrangements, operating structure, and the scope of products cleared or settled.[28]

OCC believes that the proposed rule changes are consistent with these requirements because the proposed rule change is designed to decommission or render inoperative services that OCC no longer plans to provide based on the products and services demands of Clearing Members. For example, because OCC has not cleared any OTC options since 2014 and Clearing Members have not expressed an interest in using OCC to clear and settle OTC options going forward, OCC believes that removing all By-Law and Rule provisions related to OTC options promotes OCC being effective and efficient in meeting the requirements of Clearing Members with respect to the scope of products cleared and settled, consistent with Rule 17Ad–22(e)(21).[29] Similarly, OCC believes that decommissioning OCC's voluntary service for Clearing Members that are party to a CMTA to facilitate the settlement of commissions and fees, which service has not been used by Clearing Members since 2016, also promotes the efficient and effective satisfaction of the requirements of Clearing Members consistent with Rule 17Ad–22(e)(21).[30] As a third example, no Clearing Members currently use the associated Market Maker account subtype, so OCC proposes to eliminate such account type. By no longer supporting products or services that have not been used by Clearing Members, OCC can free up resources to focus on products and services for which there is demand from Clearing Members, thereby promoting a more efficient and effective OCC to meet the requirements of Clearing Members. OCC also believes that specifying in its By-Laws and Rules which products and services are no longer available or that are currently inoperative generally serves to protect investors and the public interest who benefit from clear and transparent rulebooks, consistent with Section 17A(b)(3)(F) of the Exchange Act.[31]

Several other proposed changes would similarly promote a clear and transparent rulebook consistent with Section 17A(b)(3)(F) of the Exchange Act.[32] For example, the proposed change to Rule 408, which would make clear that the account allocation functionality is only available for futures and options on futures would eliminate any potential confusion that Clearing Members might have regarding the scope of this service. OCC's proposal to clarify that the default treatment of confirmed trades in futures and options as opening transactions in Rule 401 similarly promotes a clear and transparent rulebook and would reduce any potential concerns of a Clearing Member that a confirmed trade without having been marked as an opening position might inadvertently result in closing a Clearing Member's position.[33] For the same reasons, the proposed change to Rule 909(d) would make clear OCC's practices with respect to the discharge of broker-to-broker obligations by specifying that OCC treats transactions as pending and would better align that Rule with By-Law Article VI, Section 19.[34]

OCC believes that no longer requiring that Clearing Members must maintain records of both parties to a trade (pursuant to the proposed changes to Rule 208) is consistent with Section 17A(b)(3)(I) because OCC would no longer provide the counterparty information of trades to Clearing Members party to those trades. Such information is not required for clearing and settlement purposes, and providing this information would result in OCC developing and supporting functionality that would impact OCC's implementation of Ovation. In turn, by not providing counterparty information, OCC would help ensure that its Rules do not inappropriately burden competition among its participants by forcing Clearing Members to develop and support functionality not necessary for the clearing and settlement of trades.[35]

OCC believes that the proposed changes to clarify that a Giving-Up Clearing Member is not required to provide instructions that identify the designated account of the Given-Up Clearing member serves the protection

[26] *See* proposed By-Law Article VI, Section 3(c), Interpretation and Policy .06.

[27] 15 U.S.C. 78q–1(b)(3)(F).

[28] 17 CFR 240.17Ad–22(e)(21).

[29] *Id.*

[30] *Id.*

[31] 15 U.S.C. 78q–1(b)(3)(F).

[32] *Id.*

[33] This change would also make uniform such default treatment (as an opening transaction) across all account types (*i.e.,* including market makers), which eliminates any potential unfair discrimination across different account types, consistent with the requirement under Section 17A(b)(3)(F) of the Exchange Act that OCC's rules not be designed to permit unfair discrimination in the use of OCC. 15 U.S.C. 78q–1(b)(3)(F).

[34] OCC also notes that all Clearing Members would continue to be treated the same under Rule 909(d) with respect to OCC's role in settling broker-to-broker transactions, which OCC believes promotes consistency with Section 17A(b)(3)(F) of the Exchange Act (prohibiting OCC's rules from being designed to permit unfair discrimination in the use of OCC).

[35] 15 U.S.C. 78q–1(b)(3)(I).

of investors and the public interest consistent with Section 17A(b)(3)(F) of the Exchange Act by providing more control to Clearing Members in allocating give-ups. For example, a Given-Up Clearing Member will have control to designate the account to which positions should be allocated and a Giving-Up Clearing Member will no longer be required to designate the specific account when it may or may not know the correct account. OCC believes that this would protect investors by reducing potential operational risk arising from a Giving-Up Clearing Member selecting the incorrect account of the Given-Up Clearing Member. This change would also provide a more efficient means for Giving-Up Clearing Members to ensure positions are allocated to the desired account, which efficiencies OCC believes helps removes impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.[36]

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Exchange Act[37] 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 Exchange Act. OCC does not believe that the proposed rule changes related to discontinuing OCC's settlement of fees and commissions for Clearing Member CMTA arrangements, elimination of the unused associated Market Maker account subtype, and rendering OTC option services inoperative would impact or impose any burden on competition. Neither of these services have been used by Clearing Members for at least six years, and the proposed changes would apply equally to all Clearing Members. Regarding the proposed rule change to no longer require a Clearing Member to keep records of its counterparties to confirmed trades, OCC believes that this change will remove any burden on competition that could arise from Clearing Members developing solutions to support functionality not required for clearing and settlement purposes. In that regard, OCC believes that this proposed rule change promotes greater consistency with Section 17A(b)(3)(I) of the Exchange Act.[38]

For the foregoing reasons, OCC believes that the proposed rule change is in the public interest, would be consistent with the requirements of the Exchange Act applicable to clearing agencies, and either would not impact or impose a burden on competition or would help alleviate potential burdens on competition.

(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 rule change and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period 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 such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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-regulations/self-regulatory-organization-rulemaking*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–OCC–2024–013 on the subject line.

Paper Comments

- Send paper comments in triplicate to Vanessa Countryman, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–OCC–2024–013. 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-regulations/self-regulatory-organization-rulemaking*). 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–2024–013 and should be submitted on or before October 22, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Vanessa Countryman,

Secretary.

[FR Doc. 2024–22412 Filed 9–30–24; 8:45 am]

BILLING CODE 8011–01–P

[36] 15 U.S.C. 78q–1(b)(3)(F).

[37] 15 U.S.C. 78q–1(b)(3)(I).

[38] *Id.*

[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–562, OMB Control No. 3235–0624]

Submission for OMB Review; Comment Request; Extension: Regulation R, Rule 701

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the

Office of Management and Budget (''OMB'') a request for approval of extension of the previously approved collection of information provided for in Regulation R, Rule 701 (17 CFR 247.701) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Regulation R, Rule 701 requires a broker or dealer (as part of a written agreement between the bank and the broker or dealer) to notify the bank if the broker or dealer makes certain determinations regarding the financial status of the customer, a bank employee's statutory disqualification status, and compliance with suitability or sophistication standards.

The Commission estimates there are 3,402 registered brokers or dealers that would, on average, notify 1,000 banks approximately two times annually about a determination regarding a customer's high net worth or institutional status or suitability or sophistication standing as well as a bank employee's statutory disqualification status. Based on these estimates, the Commission anticipates that Regulation R, Rule 701 would result in brokers or dealers making approximately 2,000 notifications to banks per year. The Commission further estimates (based on the level of difficulty and complexity of the applicable activities) that a broker or dealer would spend approximately 15 minutes per notice to a bank. Therefore, the estimated total annual third-party disclosure burden for the requirements in Regulation R, Rule 701 is 500 [1] hours for brokers or dealers.

The retention period for the recordkeeping requirement under Rule 17Ad–2(c), (d), and (h) is not less than two years following the date the notice is submitted. The recordkeeping requirement under this rule is mandatory to assist the Commission in monitoring transfer agents who fail to meet the minimum performance standards set by the Commission rule. This rule does not involve the collection of confidential information. Please note that a transfer agent is not required to file under the rule unless it does not meet the minimum performance standards for turnaround, processing or forwarding items received for transfer during a month.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: *www.reginfo.gov.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Written comments and recommendations for the proposed information collection should be sent by October 31, 2024 to: (i) *www.reginfo.gov/public/do/PRAMain* and (ii) Austin Gerig, Director/Chief Data Officer, Securities and Exchange Commission, c/o Oluwaseun Ajayi, 100 F Street NE, Washington, DC 20549, or by sending an email to: *PRA_Mailbox@sec.gov.*

Dated: September 25, 2024.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–22402 Filed 9–30–24; 8:45 am]

BILLING CODE 8011–01–P

[1] 1,000 banks × 2 notices = 2,000 notices; (2,000 notices × 15 minutes) = 30,000 minutes/60 minutes = 500 hours.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101191; File No. SR–MIAX–2024–38]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Make a Number of Minor, Non-Substantive Edits to Exchange's Rulebook and Delete All References to Mini-Options in the Rulebook

September 25, 2024.

Pursuant to the provisions of 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 17, 2024, Miami International Securities Exchange, LLC (''MIAX'' 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 proposes to make a number of minor, non-substantive edits to Exchange's Rulebook and delete all references to mini-options in the Rulebook.

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

Proposal To Amend Exchange Rule 100

The Exchange proposes to amend Exchange Rule 100 to make minor, non-substantive edits and clarifying changes to provide accuracy and precision within the rule text.

Specifically, the Exchange proposes to amend the definition of Market Makers [3] in Exchange Rule 100 to move the comma after ''Lead Market Makers'' from outside to inside the quotation marks for grammatical correctness and clarity in the rule text. Additionally, the Exchange proposes to add a comma before the conjunction ''and'' (*i.e.* between ''Primary Lead Market Makers'' and ''Registered Market Makers''), where the comma will be placed inside the closing quotation mark. Accordingly, with the proposed changes, the definition of Market Makers in Exchange Rule 100 will read as follows:

The term ''Market Makers'' refers to ''Lead Market Makers,'' ''Primary Lead Market Makers,'' and ''Registered Market Makers'' collectively.

Proposal To Amend Interpretations and Policies .01 of Exchange Rule 521

The Exchange proposes to amend Interpretations and Policies .01 of Exchange Rule 521 to make a minor, non-substantive edit to provide accuracy and precision within the rule text.

Specifically, the Exchange proposes to amend Interpretations and Policies .01

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Market Makers'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

of Exchange Rule 521 to add a closing parenthesis at the end of the first sentence for grammatical correctness and clarity in the rule text. Accordingly, with the proposed changes, the Interpretations and Policies .01 of Exchange Rule 521 will read as follows:

.01 Limit Up-Limit Down State. An execution will not be subject to review as an Obvious Error or Catastrophic Error pursuant to paragraph (c) or (d) of this Rule if it occurred while the underlying security was in a ''Limit State'' or ''Straddle State,'' as defined in the Regulation NMS Plan to Address Extraordinary Market Volatility (the ''Limit Up-Limit Down Plan'' or the ''Plan''). Nothing in this provision shall prevent such execution from being reviewed on an Official's own motion pursuant to sub-paragraph (c)(3) of this Rule, or a bust or adjust pursuant to paragraphs (e) through (k) of this Rule.

Proposal To Amend Interpretations and Policies .02 of Exchange Rule 1809

The Exchange proposes to amend Interpretations and Policies .02 of Exchange Rule 1809 to make a minor, clarifying change to provide accuracy and precision within the rule text. Interpretation and Policy .02 of Exchange Rule 1809 discusses the Quarterly Options Series [4] Program and that the Exchange may list Quarterly Options Series for index options.

Specifically, the Exchange proposes to amend Interpretations and Policies .02 of Exchange Rule 1809 to delete ''pilot'' at the end of the last sentence. The Exchange notes that other exchanges have permanently established quarterly options series programs.[5] Accordingly, with the proposed changes, Interpretations and Policies .02 of Exchange Rule 1809 will read as follows:

.02 Quarterly Options Series Program: Notwithstanding the restriction in Rule 1809(a)(3), the Exchange may list and trade options series that expire at the close of business on the last business day of a calendar quarter (''Quarterly Options Series''). The Exchange may list Quarterly Options Series for up to five (5) currently listed options classes that are either index options or options on exchange traded funds (''ETFs''). In addition, the Exchange may also list Quarterly Options Series on any options classes that are selected by other securities exchanges that employ a similar program under their respective rules.

Proposal To Delete All References to Mini-Options

The Exchange proposes to delete all outdated references to mini-options in the rule text.[6] On April 17, 2013, the Exchange began listing and trading mini-options that were options contracts on a select number of high-priced and actively traded securities, each with a unit of trading ten times lower than that of standard-sized options contracts.[7] Mini-options never gained significant market acceptance and have not achieved the expected level of traction or success in its target market. Accordingly, all mini-options were delisted several years ago and the Exchange does not have plans to re-list them in the foreseeable future. As the Exchange no longer offers mini-option contracts, the Exchange proposes to delete all references to mini-options to provide greater clarity to Members [8] and the public regarding the Exchange's offerings and Rulebook. The Exchange also notes that other exchanges filed similar proposals to delete references to mini-options.[9]

Specifically, the Exchange proposes to delete the content in Interpretations and Policies .03 of Exchange Rule 307 and then insert ''Reserved'' so as to keep the remainder of the Rulebook as currently formatted. The Exchange proposes to delete the content in Interpretations and Policies .08 of Exchange Rule 404 and then insert ''Reserved'' so as to keep the remainder of the Rulebook as currently formatted. The Exchange proposes to delete the content in subparagraph (c) of Exchange Rule 509 and then insert ''Reserved'' so as to keep the remainder of the Rulebook as currently formatted. The Exchange proposes to delete the content in Interpretations and Policies .02 of Exchange Rule 510 and then insert ''Reserved'' so as to keep the remainder of the Rulebook as currently formatted. The Exchange proposes to delete ''or 5,000 mini-option contracts'' at the end of subparagraph (b)(1)(i) of Exchange Rule 515A. The Exchange proposes to delete ''or 10,000 mini-option contracts,'' in the first sentence of subparagraph (j) of Exchange Rule 516. In addition, the Exchange proposes to delete the sentence that ''Mini-options may only be part of a complex order that includes other mini-options.'' in subparagraph (a)(5) of Exchange Rule 518.

2. Statutory Basis

The Exchange believes that the proposed changes are consistent with Section 6(b) of the Act [10] in general, and further the objectives of Section 6(b)(1) of the Act [11] in particular, in that they are designed to enforce compliance by the Exchange's Members and persons associated with its Members, with the provisions of the rules of the Exchange. In particular, the Exchange believes that the proposed changes will provide greater clarity to Members and the public regarding the Exchange's Rulebook by correcting grammatical errors, removing obsolete rule text, and providing accuracy and consistency within the Exchange's Rulebook. The proposed changes will also make it easier for Members to interpret the Exchange's Rulebook.

The Exchange believes that the proposed rule changes also further the objectives of Section 6(b)(5) of the Act. In particular, they are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, protect investors and the public interest. The Exchange believes the proposed changes promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system

[4] The term ''Quarterly Options Series'' is a series in an options class that is approved for listing and trading on the Exchange in which the series is opened for trading on any business day and that expires at the close of business on the last business day of a calendar quarter. *See* Exchange Rule 100.

[5] *See e.g.,* Securities Exchange Act Release No. 60164 (June 23, 2009), 74 FR 31333 (June 30, 2009) (SR–CBOE–2009–029) (Order Approving a Proposed Rule Change To Permanently Establish the Quarterly Option Series Program); *see also* Securities Exchange Act Release No. 60275 (July 9, 2009), 74 FR 34809 (July 17, 2009) (SR–ISE–2009–50) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Permanently Establish the Quarterly Options Series Pilot Program).

[6] The Exchange anticipates it will file a separate rule filing pursuant to Rule 19b–4 of the Exchange Act with the Commission to remove references to ''mini-options'' in the MIAX Options Exchange Fee Schedule, including outdated tables that still list fees (or rebates) for transactions by market participants in mini-options.

[7] *See* Securities Exchange Act Release No. 69136 (March 14, 2013), 78 FR 17259 (March 20, 2013) (SR–MIAX–2013–06).

[8] 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.

[9] *See* Securities Exchange Act Release No. 88374 (March 12, 2020), 85 FR 15522 (March 18, 2020) (SR–Phlx–2020–08) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Certain Phlx Rules To Remove References to Mini Options); *see also* Securities Exchange Act Release No. 88458 (March 23, 2020), 85 FR 17372 (March 27, 2020) (SR–MRX–2020–07) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Removal of Obsolete Listing Rules); *see also* Securities Exchange Act Release No. 88456 (March 23, 2020), 85 FR 17126 (March 26, 2020) (SR–ISE–2020–11) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Removal of Obsolete Listing Rules).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(1).

because the proposed rule changes will provide greater clarity to Members and the public regarding the Exchange's Rulebook by correcting grammatical errors and removing obsolete rule text. The proposed changes to remove obsolete rule text include the removal of outdated references to mini-options. Mini-options are no longer offered by the Exchange since mini-options failed to gain significant market acceptance and have not achieved the expected level of traction or success in its target market. Removing references to mini-options would render the rules more accurate and reduce potential investor confusion. It is in the public interest for the Exchange's Rulebook to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange believes the proposed changes will not impose any burden on intra-market competition as there is no functional change to the Exchange's System [12] and because the rules of the Exchange apply to all Members equally. The proposed rule changes will have no impact on competition as they are not designed to address any competitive issue but rather are designed to remedy minor, non-substantive issues and provide added clarity to the Exchange's Rulebook, including removing outdated references to mini-options that are no longer offered by the Exchange. Mini-options failed to gain significant market acceptance and have not achieved the expected level of traction or success in its target market, so the Exchange delisted all mini-options several years ago and does not have plans to re-list them in the foreseeable future.[13] In addition, the Exchange does not believe the proposal will impose any burden on inter-market competition as the proposal does not address any competitive issues and is intended to protect investors by providing further transparency and accuracy regarding the Exchange's Rulebook.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [14] and subparagraph (f)(6) of Rule 19b–4 thereunder.[15]

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) [16] of the Act to determine whether the proposed rule change 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–2024–38 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–2024–38. 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–2024–38 and should be submitted on or before October 22, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–22414 Filed 9–30–24; 8:45 am]

BILLING CODE 8011–01–P

[12] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[13] The Exchange notes that other exchanges filed similar proposals to delete references to mini-options. *See supra* note 9.

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 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.

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 35342; File No. 812–15482]

Lafayette Square USA, Inc., et al.

September 26, 2024.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to

permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to amend a previous order granted by the Commission that permits certain business development companies and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Lafayette Square USA, Inc., Lafayette Square Private Fund, LLC and LS BDC Adviser, LLC.

FILING DATES: The application was filed on July 12, 2023.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on October 21, 2024, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Ileana Stone, *stone@lafayettesquare.com;* with copies to: Thomas Friedmann, *thomas.friedmann@dechert.com* and Cynthia Beyea, *Cynthia.Beyea@dechert.com.*

FOR FURTHER INFORMATION CONTACT: Terri G. Jordan, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated July 12, 2023, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–22548 Filed 9–30–24; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101192; File No. SR–IEX–2024–18]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify a Representation in a Recent Rule Filing Regarding the Planned Migration of its System

September 25, 2024.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on September 18, 2024, the Investors Exchange LLC (''IEX'' or the ''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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act [4], and Rule 19b–4 thereunder [5], the Exchange is filing with the Commission a proposal to modify a representation in a recent rule filing regarding the amount of advance notice IEX will give before implementing that rule filing. The Exchange has designated this proposal as non-controversial and is requesting a waiver of the notice required by Rule 19b–4(f)(6)(iii) under the Act.[6]

There is no rule text for this proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] 17 CFR 240.19b–4(f)(6)(iii).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 4, 2024, in connection with IEX's planned migration of its System [7] from a data center located in Weehawken, New Jersey to a data center located in Secaucus, New Jersey, IEX filed with the Commission an immediately effective proposed rule change.[8] The Data Center Migration Filing amended IEX Rules 11.190 and 11.510 to remove references to the latency applicable to outbound communications from IEX's System (''outbound latency'') to its Users [9] (defined as Members [10] and Sponsored Participants [11]), Data Recipients [12], and Service Bureaus [13] (collectively, ''Participants'' [14]); the filing also added Temporary Supplementary Material .01 to IEX Rule 11.510(a) to describe the minor temporary change in inbound latency [15] during the data center migration. The Data Center Migration Filing included a representation that IEX would issue a Trading Alert at least 30 days in advance of the migration ''describing the transition, schedule, and impact.'' [16] For the reasons set forth below, IEX is making this filing to modify the advance notice period in the Data Center Migration Filing from 30 to 28 days.

IEX has issued three Trading Alerts informing market participants about the

[7] *See* IEX Rule 1.160(nn).

[8] *See* Securities Exchange Act Release No. 101018 (September 12, 2024), 89 FR 76526 (September 18, 2024) (SR–IEX–2024–17) (''Data Center Migration Filing'').

[9] *See* IEX Rule 1.160(qq).

[10] *See* IEX Rule 1.160(s).

[11] *See* IEX Rule 1.160(ll).

[12] *See* IEX Rule 11.130(c).

[13] *See* IEX Rule 11.130(d).

[14] *See* IEX Rule 11.130(a).

[15] *See* IEX Rule 11.510(b)(1).

[16] *See supra* note 5.

planned data center migration. The first Trading Alert, issued on August 29, 2024 (''August 29 Alert''), informed Participants of the data center migration planned for the fourth quarter of 2024, described how the migration would reduce the outbound latency from 37 microseconds to a negligible latency, explained that Participants would not need to make any configuration changes to accommodate the data center migration, and provided three Saturday testing dates in September 2024.[17] The second Trading Alert, issued on September 9, 2024 (''September 9 Alert''), provided additional detail about the data center migration planned for the fourth quarter of 2024.[18] In particular, the September 9 Alert detailed the temporary change to IEX's inbound latency during the migration: from 350 to 387 microseconds for inbound messages and from 350 to 424 microseconds for routable orders.[19] The September 9 Alert also provided an overview of the migration schedule that would entail migrating client gateways, market data feeds, and matching engines on a symbol-by-symbol basis.[20]

On Monday, September 16, 2024, IEX issued a third Trading Alert (''September 16 Alert''), which announced the October 14, 2024 scheduled commencement of the data center migration and detailed which aspects of the System would be migrated until the October 31, 2024 completion.[21]

IEX waited until September 16 to announce the October 14 migration start date to allow for testing of our fallback mechanisms for the migration, as well as confirmatory testing of connectivity to the CTA SIP conducted over the prior weekend (September 14 and 15). Additionally, IEX wanted to offer Participants an opportunity to connect to and test the new data center, which it did on September 14. While September 16 is 28 days before the migration start date, as noted above, IEX already provided more than 30 days' notice to market participants of the planned migration before it issued the September 14 Alert. Furthermore, IEX believes 28 days' advance notice provides sufficient advance notice of the migration schedule to inform Participants who may need to prepare for the migration.

IEX selected Monday, October 14, 2024, as the migration start date for two primary reasons. First, the migration must start on a Monday to allow IEX's technology team to use the preceding weekend to physically relocate equipment from the Weehawken data center to the Secaucus data center and to test that the equipment is properly installed in the Secaucus data center. Second, IEX determined it would be optimal to start the migration on October 14, for several logistical reasons, including that commencing the migration on October 14 will allow IEX sufficient time to fully decommission or relocate IEX's equipment currently housed in the Weehawken data center, without causing any undue hardship to the Exchange.

Thus, for the reasons set forth above, IEX is filing this proposal to modify the 30 days' advance notice requirement to 28 days' advance notice. With this filing, the September 16 Alert will be deemed to provide timely notice of the migration. If, for an unforeseen reason, IEX must delay the October 14, 2024 data center migration start date, IEX will issue an additional Trading Alert providing at least 10 days' notice of the new start date for the migration.

2. Statutory Basis

IEX believes that its proposal is consistent with the provisions of Section 6(b) of the Act[22] in general, and with Section 6(b)(5) of the Act,[23] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. Specifically, the proposal is consistent with the Act because the three Trading Alerts described in the Purpose section provided appropriate transparency and clarity to market participants and the Commission regarding the data center migration and the related rule changes.

As noted in the Purpose section, Participants will not need to make any configuration changes to accommodate the reduction in IEX's outbound latency set forth in the Data Center Migration Filing. Participants also will not need to make any configuration changes to accommodate the temporary increases to IEX's inbound latency set forth in the Data Center Migration Filing. Nevertheless, IEX understands that Members that use arrival-time routing strategies may choose to update their routing logic during the migration period. Thus, IEX believes it is consistent with the Act to provide at least 28 days' notice of the start date of the data center migration, and that the advance notice IEX provided of its data center migration is more than sufficient notice to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

Additionally, as described in the Purpose section, reducing from 30 to 28 days the amount of advance notice IEX must give to Participants of the data center migration schedule allowed IEX sufficient time to fully test the data center migration before announcing the start date (including allowing Participants a testing date on September 14), and allows enough time for IEX to conduct an orderly migration and to properly decommission its Weehawken data center. Thus, this slightly reduced notice period is designed to allow IEX to maintain a functioning market without interruption during the migration, which is consistent with the requirements of the Act that a rule change should remove impediments to and perfect the mechanism of a free and open market and protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposal will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. As explained above, the purpose of this proposal is to modify from 30 to 28 days the amount of advance notice IEX must give to Participants of the data migration schedule. This modest reduction in the amount of advance notice IEX must give of the migration start date will impact all market participants equally. The Exchange does not expect the slightly shorter notice period to place any burden on competition. Rather, the change to the notice period will allow the Exchange to implement the data center migration in a thorough and risk averse manner and is not designed for any competitive purpose.

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.

[17] *See* IEX Trading Alert #2024–024, *https://iextrading.com/alerts/#/263*. IEX understands that Members that use arrival-time routing strategies may choose to update their routing logic during the migration period.

[18] *See* IEX Trading Alert #2024–027, *https://iextrading.com/alerts/#/256*.

[19] *Id.*

[20] *Id.*

[21] *See* IEX Trading Alert #2024–028, *https://iextrading.com/alerts/#/266*.

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

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)(iii) [24] of the Act and Rule 19b–4(f)(6) thereunder [25] in that it effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

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 asked the Commission to waive the 30-day operative delay contained in Rule 19b–4(f)(6)(iii).[28] The Exchange stated that waiver of the 30-day delay would permit the Exchange to promptly notify market participants of the data center migration schedule without any confusion as to whether IEX has provided sufficient advance notice of the migration, thereby allowing market participants sufficient time to test the new data center configuration and update any routing logic to account for the temporary changes to IEX's inbound latency during the migration. In the filing, IEX confirmed that it issued a Trading Alert on September 16 with details on the migration from the Weehawken data center to the Secaucus data center at least 28 days prior to starting the migration, which is currently planned for October 14. IEX further represented that it provided Participants one round of testing before issuing the September 16 Trading Alert. The proposed modification of the duration of the notice by IEX to its members of the data center migration from 30 days to 28 days to account for an intervening weekend during which IEX allowed participants to connect to and test the new data center does not raise any novel issues and provides sufficient clarification of IEX's previously-announced intentions regarding the timing of the migration, especially in light of the two prior Trading Alerts that IEX issued on August 29 and September 9, and therefore 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 proposal 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 under Section 19(b)(2)(B) [30] 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–IEX–2024–18 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–IEX–2024–18. 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–IEX–2024–18 and should be submitted on or before October 22, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Vanessa A. Countryman,

Secretary.

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[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 the filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange requested waiver of the five-day prefiling requirement for this proposal for the reasons stated in its filing, which the Commission hereby grants.

[26] 17 CFR 240.19b–4(f)(6).

[27] 17 CFR 240.19b–4(f)(6)(iii).

[28] 17 CFR 240.19b–4(f)(6)(iii).

[29] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[30] 15 U.S.C. 78s(b)(2)(B).

[31] 17 CFR 200.30–3(a)(12) and (59).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–101190; File No. SR–CboeBZX–2024–089]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 14.11(e)(10) (Managed Trust Securities) and To List and Trade Shares of the Dynamic Short Short-Term Volatility Futures ETF Under Amended Rule 14.11(e)(10)

September 25, 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, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') is filing with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change to (1) amend Exchange Rule 14.11(e)(10) to add certain financial instruments that an issue of Managed Trust Securities may hold; and (2) list and trade shares of the Dynamic Short Short-Term Volatility Futures ETF (the ''Fund''), a series of Dynamic Shares Trust (the ''Trust''), under Rule 14.11(e)(10) (Managed Trust Securities), which is currently listed on NYSE Arca, Inc. (''Arca'').

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/equities/regulation/rule_filings/bzx/*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Exchange Rule 14.11(e)(10) permits the trading of Managed Trust Securities either by listing or pursuant to unlisted trading privileges (''UTP'').[5] The Exchange proposes to amend Rule 14.11(e)(10)(C)(i) to, among other things, permit the use of exchange-traded futures contracts involving commodity indices, currency indices, Cboe Volatility Index (VIX), or the EURO STOXX 50 Volatility Index (VSTOXX), permit the use of swaps on stock indices, fixed income indices, commodity indices, the VIX, VSTOXX, commodities, currencies, currency indices, or interest rates, and to permit the trust to hold cash and cash equivalents.[6] The Exchange also proposes to list and trade Shares of the Dynamic Short Short-Term Volatility Futures ETF (the ''Fund''), under Rule 14.11(e)(10), as proposed to be amended, which governs the listing and trading of Managed Trust Securities on the Exchange.[7] The Exchanges notes that the listing and trading of the Shares has previously been approved by the Commission and are currently listed on NYSE Arca.[8] This proposal to list and trade Shares of the Fund is substantively identical to the Prior Release and the issuer represents that all material representations contained within the Prior Release remain true. Further, the Fund is already trading on the Exchange pursuant to unlisted trading privileges, as provided in Rule 14.11(j).

Managed Trust Securities

The Exchange proposes to modify Exchange Rule 14.11(e)(10(C)(i) to substantively conform to Arca Rule 8.700(E)[sic](c)(1). Thus, the proposed changes to Rule 14.11(e)(10)(C)(i) would make the Exchange Rule substantively identical to NYSE Arca Rule 8.700–E(c)(1).

Dynamic Short Short-Term Volatility Futures ETF

The Exchange proposes to list and trade the Shares of the Fund under proposed amended Rule 14.11(e)(10). Dynamic Shares LLC will serve as the Trust's sponsor (''Sponsor'') and will serve as its commodity pool operator. Wilmington Trust Company is the sole ''Trustee'' of the Trust. The Nottingham Company will be the ''Administrator'' for the Fund. Nottingham Shareholder Services, LLC will serve as the ''Transfer Agent'' for the Fund for ''authorized participants.'' Capital Investment Group, Inc. will serve as the ''Distributor'' for the Fund.

The Sponsor is a commodity pool operator and is not registered or affiliated with a broker-dealer. In the event (a) the Sponsor becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new sponsor is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Disclosed Portfolio (as defined in Exchange Rule 14.11(e)(10)(C)(ii)), and will be subject to procedures designed to prevent the use and dissemination of material non-

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The term ''Managed Trust Securities'' as used in the Rules shall, unless the context otherwise requires, mean a security that is registered under the Securities Act of 1933, as amended, (a) is issued by a trust (''Trust'') that (1) is a commodity pool as defined in the Commodity Exchange Act and regulations thereunder, and that is managed by a commodity pool operator registered with the Commodity Futures Trading Commission, and (2) holds long and/or short positions in exchange-traded futures contracts and/or certain currency forward contracts selected by the Trust's advisor consistent with the Trust's investment objectives, which will only include exchange-traded futures contracts involving commodities, currencies, stock indices, fixed income indices, interest rates and sovereign, private and mortgage or asset backed debt instruments, and/or forward contracts on specified currencies, each as disclosed in the Trust's prospectus as such may be amended from time to time; and (b) is issued and redeemed continuously in specified aggregate amounts at the next applicable net asset value. *See* Exchange Rule 14.11(e)(10)(C)(i).

[6] Another exchange rule similarly provides for a series of Managed Trust Securities to hold such instruments. *See* NYSE Arca Rule 8.700–E. Managed Trust Securities. For purposes of the proposed amendment to Exchange Rule 14.11(e)(10)(C)(i), cash and cash equivalents means short-term instruments with maturities of less than three months, including: (i) U.S. Government securities, including bills, notes, and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[7] The Commission approved BZX Rule 14.11(e)(10) in Securities Exchange Act Release No. 70250 (August 23, 2013), 78 FR 53510 (August 29, 2013) (SR–BATS–2013–038).

[8] *See* Securities Exchange Act Nos. 86714 (August 20, 2019) 84 FR 44642 (August 26, 2019) (SR–NYSEArca–2019–55) (Notice of Filing of Proposed Rule Change To Amend NYSE Arca Rule 8.700–E and To List and Trade Shares of the Dynamic Short Short-Term Volatility Futures ETF) (the ''Prior Proposal''); 87223 (October 4, 2019) 84 FR 54707 (October 10, 2019) (Order Approving a Proposed Rule Change To Amend NYSE Arca Rule 8.700–E and To List and Trade Shares of the Dynamic Short Short-Term Volatility Futures ETF) (the ''Approval Order'' and together with the Prior Proposal, the ''Prior Release'').

public information regarding such portfolio.

According to the Registration Statement,[9] the Fund will seek to provide investors with inverse exposure to the implied volatility of the broad-based, large-cap U.S. equity market. Such exposure will be for one full trading day. The Fund will seek to achieve its investment objective, under normal market conditions,[10] by obtaining investment exposure to an actively managed portfolio of short positions in futures on the VIX Index[11] (''VIX Futures'') with monthly expirations.

The Fund expects to primarily take short positions in VIX Futures by shorting the next two near term VIX Futures and rolling the nearest month VIX Futures to the next month on a daily basis. As such, the Fund expects to have a constant one-month rolling short position in first and second month VIX Futures.

The Fund also may hold cash and cash equivalents, including U.S. Treasury securities.[12]

The Fund will seek to dynamically manage its notional exposure to VIX Futures. For instance, when the VIX Index is below its historical average, the Fund's notional exposure will be lower than a traditional short VIX short term futures ETF, which may maintain a fixed notional exposure every day.

When the VIX Index is going up, the Fund will gradually increase its notional exposure, up to a ceiling of −0.5 times its net asset value (''NAV''). The Fund expects that its notional exposure will not exceed −0.5 times its NAV, but that its notional exposure may exceed −0.5 times its NAV during intraday trading before recalibration (as described further below).

The Fund will be actively managed and is not benchmarked to the VIX Index. As such, according to the Registration Statement, the Fund can be expected to perform very differently from the inverse of the VIX Index. The Fund does not seek to track the performance of the VIX Index or the S&P 500® and can be expected to perform very differently from the VIX Index over all periods of time.

According to the Registration Statement, the Fund will experience positive or negative performance based on changes in the implied level of future market volatility to the extent these changes are reflected in the price of VIX Futures. The Fund generally will experience positive performance, before accounting for fees and expenses, to the extent that the implied level of future volatility, as reflected by the value of the Fund's short position in VIX Futures, decreases. Similarly, the Fund generally will experience negative performance, before accounting for fees and expenses, to the extent that the implied level of future volatility increases.

According to the Registration Statement, at the close of each trading day, the Fund expects to recalibrate its notional exposure value upon the change of the VIX Index and contango on that day.[13] The Fund expects its notional exposure to range from −0.1 to −0.5 after each calibration. Movements of the VIX Futures during the day will affect whether the Fund's portfolio needs to be repositioned. For example, if the levels of the VIX Futures have risen on a given day, net assets of the Fund should fall. As a result of the calibration, the Fund's inverse exposure will generally increase to a level not beyond −0.5. Conversely, if the levels of the VIX Futures have fallen on a given day, net assets of the Fund should rise. As a result of the calibration, the Fund's inverse exposure will generally decrease to as low as −0.1.

In seeking to achieve the Fund's investment objective, the Sponsor uses a proprietary algorithm, which learns from VIX Futures historical prices and contango trend, to optimize VIX Futures trading risks and returns. The algorithm starts with a relatively low notional exposure (−0.1 to −0.15) and recalibrates its notional exposure upon the change of price and contango of VIX Futures. The Sponsor expects the algorithm to slightly increase the Fund's notional exposure when the price of VIX Futures go up to a level not beyond −0.5, and, when the price of VIX Futures goes down, the Sponsor expects the algorithm to decrease the Fund's notional exposure to lower levels to prepare for potential upcoming spikes in the price of VIX Futures. In the event that the Fund's notional exposure has already reached −0.5 and the price of VIX Futures increases, the Fund expects to maintain its notional exposure at −0.5 at the close of each trading day. Conversely, if the price of VIX Futures decreases when the Fund's notional exposure is below −0.1, the Fund expects to maintain its notional exposure at −0.1 when calibrating its notional exposure.

According to the Registration Statement, the pursuit of the Fund's daily investment objective means that the Fund's return for a period longer than a full trading day will be the product of the series of daily returns, with daily repositioned exposure, for each trading day during the relevant period. As a consequence, the return for investors that invest for periods less than a full trading day or for a period different than a trading day will not be the product of the return of the Fund's stated daily inverse investment objective.

Purchases and Redemptions of Creation Units

Except for the creation unit size, all representations pertaining to the purchases and redemptions of creation units are identical to those in the Prior Release. Specifically, the Fund will create and redeem Shares from time to time in one or more creation units. A creation unit is a block of 10,000 Shares.

[9] On April 25, 2024, the Trust filed with the Commission an amended registration statement on Form S–1 under the Securities Act of 1933 relating to the Trust (File No. 333–277681) (''Registration Statement''). The description of the operation of the Trust herein is based, in part, on the Prior Release and the Registration Statement.

[10] The term ''normal market conditions'' is defined in Exchange Rule 14.11(i)(3)(D).

[11] The ''VIX Index'' refers to the Cboe Volatility Index.

[12] For purposes of this filing, cash equivalents are the following short-term instruments: (i) U.S. Government securities, including bills, notes and bonds differing as to maturity and rates of interest, which are either issued or guaranteed by the U.S. Treasury or by U.S. Government agencies or instrumentalities; (ii) certificates of deposit issued against funds deposited in a bank or savings and loan association; (iii) bankers' acceptances, which are short-term credit instruments used to finance commercial transactions; (iv) repurchase agreements and reverse repurchase agreements; (v) bank time deposits, which are monies kept on deposit with banks or savings and loan associations for a stated period of time at a fixed rate of interest; (vi) commercial paper, which are short-term unsecured promissory notes; and (vii) money market funds.

[13] According to the Registration Statement, the contractual obligations of a buyer or seller holding a futures contract to expiration may generally be satisfied by taking or making physical delivery of the underlying reference asset or settling in cash as designated in the contract specifications. Alternatively, futures contracts may be closed out prior to expiration by making an offsetting sale or purchase of an identical futures contract on the same or linked exchange before the designated date of delivery. Once this date is reached, the futures contract ''expires.'' As the futures contracts held by the Fund near expiration, they are generally closed out and replaced by contracts with a later expiration. This process is referred to as ''rolling.'' When the market for these contracts is such that the prices are higher in the more distant delivery months than in the nearer delivery months, the sale during the course of the ''rolling process'' of the more nearby contract would take place at a price that is lower than the price of the more distant contract. This pattern of higher future prices for longer expiration futures contracts is often referred to as ''contango.'' Alternatively, when the market for these contracts is such that the prices are higher in the nearer months than in the more distant months, the sale during the course of the ''rolling process'' of the more nearby contract would take place at a price that is higher than the price of the more distant contract. This pattern of higher future prices of shorter expiration futures contracts is referred to as ''backwardation.''

Net Asset Value

Everything stated in the Prior Release pertaining to the NAV per Share of the Fund will remain true and in effect.

Intraday Indicative Value (''IIV'') [14]

Everything stated in the Prior Release pertaining to the IIV will remain true and in effect.

Availability of Information

The Trust's website, *www.dynamicsharesetf.com,* which will be publicly accessible at no charge, will contain the following information: (a) the daily NAV of the Trust, the daily NAV per Share, the prior Business Day's NAV per Share, the reported daily closing price and the reported daily trading volume; (b) the daily composition of the Disclosed Portfolio, as defined in Exchange Rule 14.11(e)(10)(C)(ii); (c) the midpoint of the bid-ask price as of the time the NAV per Share is calculated (the ''Bid-Ask Price''); (d) the calculation of the premium or discount of such price against such NAV per Share; (e) data in chart form displaying the frequency distribution of discounts or premiums of the bid-ask price against the NAV per Share, within appropriate ranges for each of the four previous calendar quarters; and (f) the current prospectus of the Trust, included in the Registration Statement.

On a daily basis, the Trust will disclose on its website for all of the assets held by the Fund the following information: name; ticker symbol (if applicable); CUSIP or other identifier (if applicable); description of the holding; with respect to derivatives, the identity of the security, commodity, index or other underlying asset; the quantity or aggregate amount of the holding as measured by par value, notional value or amount, number of contracts or number of units (if applicable); maturity date; coupon rate (if applicable); effective date or issue date (if applicable); market value; percentage weighting in the Disclosed Portfolio; and expiration date (if applicable).

As noted above, the Trust's NAV and the NAV per Share will be calculated and disseminated daily after the close of the Regular Trading Hours (normally 4:00 p.m., E.T.).[15] The Exchange will disseminate for the Trust on a daily basis by means of the Consolidated Tape Association (the ''CTA'') high-speed line information with respect to the most recent NAV per Share, and the number of Shares outstanding. The Exchange also will make available on its website daily trading volume, closing prices and the NAV per Share at no charge.

Pricing for VIX is available from major market data vendors. Pricing for VIX Futures is available from CFE and from major market data vendors. Pricing for Cboe Options is available from Cboe and from major market data vendors. Price information for cash equivalents is available from major market data vendors.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available via the CTA high-speed line.

Impact on Arbitrage Mechanism

The Sponsor believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Sponsor believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem Shares at their NAV, which should help ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Sponsor does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives.

Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in Exchange Rule 14.11(e)(10)(E) for initial and continued listing of the Shares.

The minimum number of Shares to be outstanding at the start of trading will be 100,000 Shares. The Exchange believes that this minimum number of Shares to be outstanding at the start of trading is sufficient to provide adequate market liquidity. The Exchange represents that, for the initial and continued listing of the Shares, the Trust must be in compliance with Exchange Rule 14.10 and Rule 10A–3 under the Exchange Act.[16]

Trading Rules

Under Exchange Rule 14.11(e)(10)(B), Managed Trust Securities are included within the Exchange's definition of ''securities.'' The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Interpretation and Policy .02 to Exchange Rule 14.11(e)(10) provides that transactions in Managed Trust Securities will occur during Regular Trading Hours, and the Early Trading,[17] Pre-Opening [18] and After Hours Sessions.[19] Therefore, the Shares will trade on the Exchange from 7:00 a.m. to 8:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Exchange Rule 11.11, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading in the Shares will be halted if the circuit breaker parameters under Exchange Rule 11.18 are reached. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

In addition, if the Exchange becomes aware that the NAV, the NAV per Share and/or the Disclosed Portfolio with respect to a series of Managed Trust Securities is not disseminated to all market participants at the same time, it will halt trading in such series until such time as the NAV, the NAV per Share and the Disclosed Portfolio is available to all market participants.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances

[14] The Exchange notes that the Prior Release provided that the Indicative Optimized Portfolio Value (''IOPV'') would be calculated rather than the IIV. However, Arca Rule 8.700–E(c)(3) has since been updated to reflect that IIV is currently used for Managed Trust Securities listed and traded on Arca rather than the IOPV. The definition of IIV in Arca Rule 8.700–E(c)(3) is substantively identical to Exchange Rule 14.11(e)(10)(C)(iii).

[15] The Exchange will obtain a representation from the Trust that the NAV and the NAV per Share will be calculated daily and that the NAV, the NAV per Share and the composition of the Disclosed Portfolio will be made available to all market participants at the same time.

[16] 17 CFR 240.10A–3.

[17] *See* Exchange Rule 1.5(ff).

[18] *See* Exchange Rule 1.5(r).

[19] *See* Exchange Rule 1.5(c).

administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[20] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and VIX Futures with other markets or other entities that are members of the intermarket surveillance group (''ISG''), and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and VIX Futures from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares and VIX Futures from markets or other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[21] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain cash equivalents held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Any of the statements or representations regarding the index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of index, reference asset, intraday indicative values (as applicable), or the applicability of Exchange listing rules relating to the Shares shall constitute continued listing requirements for the Shares listed on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) the procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the IIV and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares outside of Regular Trading Hours when an updated IIV will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

The Information Circular also will reference the fact that there is no regulated source of last sale information regarding certain of the asset classes that the Trust may hold and that the Commission has no jurisdiction over the trading of VIX Futures.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's website.

2. Statutory Basis

The Exchange believes the 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.[22] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[23] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[24] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange is proposing to adopt rules identical to those of another exchange and is further proposing a proposed rule change to facilitate the transfer of the security to the Exchange. Except for the size of the creation unit, all other representations made in the Prior Release remain true for the Fund.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices with respect to the proposal to list and trade Shares on the Exchange pursuant to the initial and continued listing criteria in Exchange Rule 14.11(e)(10). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Sponsor is not a broker-dealer and is not affiliated with a broker-dealer dealer. In the event (a) the Sponsor becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or

[20] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[21] For a list of the current members of ISG, see *www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[22] 15 U.S.C. 78f(b).

[23] 15 U.S.C. 78f(b)(5).

[24] *Id.*

(b) any new sponsor is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel or its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Disclosed Portfolio (as defined in Exchange Rule 14.11(e)(10)(C)(ii)), and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio. The Exchange, FINRA, on behalf of the Exchange, or both may obtain information regarding trading in the Shares and the underlying VIX Futures via the ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of exchange-traded products that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

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 purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the transfer from NYSE Arca and listing of an additional exchange-traded product on the Exchange, which will enhance competition among listing venues, to the benefit of issuers, investors, and the marketplace more broadly. The Exchange does not believe its proposal to amend Exchange Rule 14.11(e)(10)(C)[sic] will burden competition as the proposed changes would make the Rule identical to NYSE Arca Rule 8.700(E)[sic](c)(1).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A) of the Act [25] and Rule 19b–4(f)(6) [26] thereunder, the Exchange has designated this proposal as one that effects a change that: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[27]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) [28] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The proposed rule change, which modifies certain listing standards applicable to Managed Trust Securities, conforms to substantially similar standards of another national securities exchange [29] and raises no novel legal or regulatory issues. In addition, the Exchange proposes to list and trade the Fund's shares, which were previously approved for listing and trading and are currently listed and trading on NYSE Arca, Inc.[30] According to the Exchange, the proposal to list and trade the shares of the Fund is substantively identical to the Prior Release and, except for the modification of the creation unit size, all representations contained in the Prior Release remain true.[31] As such, the proposal to list and trade the shares of the Fund on the Exchange raises no novel legal or regulatory issues. Therefore, the Commission believes 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.[32]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CboeBZX–2024–089 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.

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f)(6).

[27] In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. *See id.* The Exchange has satisfied this requirement.

[28] 17 CFR 240.19b–4(f)(6)(iii).

[29] *See* NYSE Arca Rule 8.700–E(c)(1) (setting forth the initial and continued listing standards for Managed Trust Securities). *See also supra* note 6 and accompanying text.

[30] *See supra* note 8 and accompanying text. BZX represents that the date the Fund shares will transfer listing to the Exchange is anticipated to be September 30, 2024. *See* Item 3 of Form 19b–4 at 22.

[31] While the size of a creation unit for the Fund has changed from the Prior Release (in the current proposal, a creation unit is a block of 10,000 shares, and in the Prior Release, a creation unit is a block of 50,000 shares), the Prior Release represented that the size of a creation unit is subject to change. *See* Prior Proposal, *supra* note 8, 84 FR at 44645. BZX represents that, except for the creation unit size, all representations pertaining to the purchases and redemptions of creation units are identical to those in the Prior Release. The Commission also recognizes that other proposals to list and trade shares of exchange-traded products provide for similar creation unit sizes and representations. *See, e.g.,* Securities Exchange Act Release No. 94569 (March 31, 2022) 87 FR 19990 (April 6, 2022) (SR–NYSEArca–2022–16) (representing that the shares of the DoubleLine Shiller CAPE U.S. Equities ETF will be issued and redeemed in creation units of 10,000 shares and that the size of a creation unit is subject to change).

[32] 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).

All submissions should refer to file number SR–CboeBZX–2024–089. 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–CboeBZX–2024–089 and should be submitted on or before October 22, 2024.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[33]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2024–22413 Filed 9–30–24; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20668 and #20669; GEORGIA Disaster Number GA–20011]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Georgia

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 State of Georgia (FEMA–4821–DR), dated September 24, 2024.

DATES: Issued on September 24, 2024.

Physical Loan Application Deadline Date: November 25, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 24, 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 September 24, 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:

Incident: Tropical Storm Debby.

Incident Period: August 4, 2024 through August 20, 2024.

Primary Counties: Appling, Atkinson, Bacon, Berrien, Brantley, Brooks, Bryan, Bulloch, Burke, Camden, Candler, Charlton, Chatham, Clinch, Coffee, Colquitt, Cook, Echols, Effingham, Evans, Jeff Davis, Jenkins, Lanier, Long, Lowndes, McIntosh, Pierce, Screven, Tattnall, Thomas, Tift, Toombs, Ware, Wayne.

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 206688 and for economic injury is 206690.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–22410 Filed 9–30–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20672 and #20673; KANSAS Disaster Number KS–20016]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of Kansas

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 State of Kansas (FEMA–4824–DR), dated September 24, 2024.

DATES: Issued on September 24, 2024.

Physical Loan Application Deadline Date: November 25, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 24, 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 September 24, 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:

Incident: Severe Storms, Straight-line Winds, Tornadoes, and Flooding.

Incident Period: June 26, 2024 through July 7, 2024.

Primary Counties: Chase, Clark, Comanche, Doniphan, Finney, Geary, Gray, Greeley, Hamilton, Kearny, Meade, Scott, Thomas, Wabaunsee.

[33] 17 CFR 200.30–3(a)(12), (59).

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 20672B and for economic injury is 206730.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–22411 Filed 9–30–24; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #20543 and #20544; GEORGIA Disaster Number GA–20010]

Presidential Declaration of a Major Disaster for the State of Georgia

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 Georgia (FEMA–4821–DR), dated September 24, 2024.

DATES: Issued on September 24, 2024.

Physical Loan Application Deadline Date: November 25, 2024.

Economic Injury (EIDL) Loan Application Deadline Date: June 24, 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 09/24/2024, 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: Tropical Storm Debby.

Incident Period: August 4, 2024 through August 20, 2024.

Primary Counties (Physical Damage and Economic Injury Loans): Bryan, Bulloch, Chatham, Effingham, Evans, Liberty, Long, Screven.

Contiguous Counties (Economic Injury Loans Only):

Georgia: Burke, Candler, Emanuel, Jenkins, McIntosh, Tattnall, Wayne.

South Carolina: Allendale, Hampton, Jasper.

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 205438 and for economic injury is 205440.

(Catalog of Federal Domestic Assistance Number 59008)

Francisco Sánchez, Jr.,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2024–22408 Filed 9–30–24; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 12558]

Diversity Visa Instructions for DV–2026

ACTION: Notice of Diversity Visa Program for Fiscal Year 2026.

SUMMARY: This public notice provides information on how to apply for the DV–2026 Program and is issued pursuant to the Immigration and Nationality Act.

SUPPLEMENTARY INFORMATION:

Program Overiew

The Department of State annually administers the statutorily created Diversity Immigrant Visa Program. Section 203(c) of the Immigration and Nationality Act (INA) provides for a class of immigrants known as ''diversity immigrants'' from countries with historically low rates of immigration to the United States. For Fiscal Year 2026, up to 55,000 Diversity Visas (DVs) will be available. There is no cost to register for the DV program, but selectees who are scheduled for an interview will be required to pay a visa application fee prior to making their formal visa application where a consular officer will determine whether they qualify for the visa.

Applicants who are selected in the program (selectees) must meet simple but strict eligibility requirements to qualify for a DV. The Department of State determines selectees through a randomized computer drawing. The Department of State distributes diversity visas among six geographic regions, and no single country may receive more than seven percent of the available DVs in any one year.

For DV–2026, natives of the following countries and areas are not eligible to apply, because more than 50,000 natives of these countries immigrated to the United States in the previous five years: Bangladesh, Brazil, Canada, The People's Republic of China (including mainland and Hong Kong born), Colombia, Cuba, Dominican Republic, El Salvador, Haiti, Honduras, India, Jamaica, Mexico, Nigeria, Pakistan, Philippines, Republic of Korea (South Korea),Venezuela, Vietnam, Natives of Macau SAR and Taiwan are eligible. With the exception of Cuba, which is not eligible for DV–2026, there were no changes in eligibility from the previous fiscal year.

Eligibility

Requirement One: Natives of countries with historically low rates of immigration to the United States may be eligible to enter.

If you are not a native of a country with historically low rates of immigration to the United States, there are two other ways you might be able to qualify.

- Is your spouse a native of a country with historically low rates of immigration to the United States? If yes, you can claim your spouse's country of birth—provided that you and your spouse are named on the selected entry, are found eligible and issued diversity visas, and enter the United States at the same time.

• Are you a native of a country that does not have historically low rates of immigration to the United States, but in which neither of your parents was born or legally resident at the time of your birth? If yes, you may claim the country of birth of one of your parents if it is a country whose natives are eligible for the DV–2026 program. For more details on what this means, see the Frequently Asked Questions.

Requirement Two: Each DV entrant must meet the education/work experience requirement of the DV program by having either:

• at least a high school education or its equivalent, defined as successful completion of a 12-year course of formal elementary and secondary education;

OR

• two years of work experience within the past five years in an occupation that requires at least two years of training or experience to perform. The Department of State will use the U.S. Department of Labor's O*Net Online database to determine qualifying work experience. For more information about qualifying work experience, see the Frequently Asked Questions.

You should not submit an entry to the DV program unless you meet both of these requirements.

Entry Period

Applicants must submit entries for the DV–2026 program electronically at *dvprogram.state.gov* between 12:00 p.m. (noon), Eastern Daylight Time (EDT) (GMT–4), Wednesday, October 4, 2023, and 12:00 p.m. (noon), Eastern Standard Time (EST) (GMT–5), Tuesday, November 7, 2023. Do not wait until the last week of the registration period to enter as heavy demand may result in website delays. No late entries or paper entries will be accepted. The law allows only one entry per person during each entry period. The Department of State uses sophisticated technology to detect multiple entries. Submission of more than one entry for a person will disqualify all entries for that person.

Completing Your Electronic Entry for the DV–2026 Program

Submit your Electronic Diversity Visa Entry Form (E–DV Entry Form or DS–5501), online at *dvprogram.state.gov.* We will not accept incomplete entries or entries sent by any other means. There is no cost to submit the online entry form. Please use an updated browser when submitting your application; older browsers (Internet Explorer 8, for example) will likely encounter problems with the online DV system.

We strongly encourage you to complete the entry form yourself, without a ''visa consultant,'' ''visa agent,'' or other person who offers to help. If someone helps you, you should be present when your entry is prepared so that you can provide the correct answers to the questions and keep your unique confirmation number and a printout of your confirmation screen. It is extremely important that you have the printout of your confirmation page and unique confirmation number. Unscrupulous visa facilitators have been known to assist entrants with their entries, keep the confirmation page print out, and then demand more money or illegal activities in exchange for the confirmation number. Without this information, you will not be able to access the online system that informs you of your entry status. Be wary if someone offers to keep this information for you. You also should have access to the email account listed in your E–DV entry. See the Frequently Asked Questions for more information about DV program scams.

After you submit a complete entry, you will see a confirmation screen containing your name and a unique confirmation number. Print this confirmation screen for your records. Starting May 4, 2025, you will be able to check the status of your entry by returning to *dvprogram.state.gov,* clicking on Entrant Status Check, and entering your unique confirmation number and personal information. You must use Entrant Status Check to check if you have been selected for DV–2026 and, if selected, to view instructions on how to proceed with your application. The U.S. government will not inform you directly. Entrant Status Check is the sole source for instructions on how to proceed with your application. If you are selected and submit a visa application and required documents, you must use Entrant Status Check to check your immigrant visa interview appointment date. Please review the Frequently Asked Questions for more information about the selection process.

You must provide all of the following information to complete your entry. Failure to accurately include all the required information may make you ineligible for a DV.

1. Name—last/family name, first name, middle name—exactly as it appears on your passport, if you have a passport (for example, if your passport shows only your first and last/family name, please list your last/family name and then first name; do not include a middle name unless it is included on your passport. If your passport includes a first, middle and last/family name, please list them in the following order: last/family name, first name, middle name). If you have only one name, it must be entered in the last/family name field.

2. Gender—male or female.

3. Birth date—day, month, year.

4. City where you were born.

5. Country where you were born—Use the name of the country currently used for the place where you were born.

6. Country of eligibility for the DV program—Your country of eligibility will normally be the same as your country of birth. Your country of eligibility is not related to where you live or your nationality if it is different from your country of birth.

If you were born in a country that is not eligible, please review the Frequently Asked Questions to see if there is another way you may be eligible.

7. Entrant photograph(s)—Recent photographs (taken within the last six months) of yourself, your spouse, and all your derivative children included on your entry. See Submitting a Digital Photograph for compositional and technical specifications. You do not need to include a photograph for a spouse or child who is already a U.S. citizen or a Lawful Permanent Resident, but you will not be penalized if you do. DV entry photographs must meet the same standards as U.S. visa photos. You may be ineligible for a DV if the entry photographs for you and your family members do not fully meet these specifications or have been manipulated in any way. Submitting the same photograph that was submitted with a prior year's entry will make you ineligible for a DV. See Submitting a Digital Photograph (below) for more information.

8. Mailing Address—In Care Of
Address Line 1
Address Line 2
City/Town
District/Country/Province/State
Postal Code/Zip Code Country

9. Country where you live today.

10. Phone number (optional).

11. Email address—An email address to which you have direct access and will continue to have direct access through May of the next year. If you check the Entrant Status Check in May and learn you have been selected, you will later receive follow-up email communication from the Department of State with details if an immigrant visa interview becomes available. The Department of State will never send you an email telling you that you have been selected for the DV program. See the Frequently Asked Questions for more information about the selection process.

12. Highest level of education you have achieved, as of today: (1) Primary school only, (2) Some high school, no diploma, (3) High school diploma, (4) Vocational school, (5) Some university courses, (6) University degree, (7) Some graduate-level courses, (8) Master's degree, (9) Some doctoral-level courses, or (10) Doctorate. See the Frequently Asked Questions for more information about educational requirements.

13. Current marital status: (1) unmarried, (2) married and my spouse is NOT a U.S.citizen or U.S. Lawful Permanent Resident (LPR), (3) married and my spouse IS a U.S. citizen or U.S. LPR, (4) divorced, (5) widowed, or (6) legally separated. Enter the name, date of birth, gender, city/town of birth, and country of birth of your spouse, and a photograph of your spouse meeting the same technical specifications as your photo.

Failure to list your eligible spouse or, listing someone who is not your spouse, may make you ineligible as the DV principal applicant and your spouse and children ineligible as DV derivative applicants. You must list your spouse even if you currently are separated from them unless you are legally separated. Legal separation is an arrangement when a couple remain married but live apart, following a court order. If you and your spouse are legally separated, your spouse will not be able to immigrate with you through the DV program. You will not be penalized if you choose to enter the name of a spouse from whom you are legally separated. If you are not legally separated by a court order, you must include your spouse even if you plan to be divorced before you apply for the Diversity Visa, or your spouse does not intend to immigrate.

If your spouse is a U.S. citizen or Lawful Permanent Resident, do not list them in your entry. A spouse who is already a U.S. citizen or LPR will not require or be issued a visa.Therefore, if you select ''married and my spouse IS a U.S. citizen or U.S. LPR'' on your entry, you will not be prompted to include further information on your spouse. See the Frequently Asked Questions for more information about family members.

14. Number of children—List the name, date of birth, gender, city/town of birth, and country of birth for all living, unmarried children under 21 years of age, regardless of whether they are living with you or intend to accompany or follow to join you, should you immigrate to the United States. Submit individual photographs of each of your children using the same technical specifications as your own photograph.

Be sure to include:

○ all living natural children;

○ all living children legally adopted by you; and,

○ all living stepchildren who are unmarried and under the age of 21 on the date of your electronic entry, even if you are no longer legally married to the child's parent, and even if the child does not currently reside with you and/or will not immigrate with you. Married children and children who are already aged 21 or older when you submit your entry are not eligible for the DVprogram. However, the Child Status Protection Act protects children from ''aging out'' in certain circumstances: if you submit your DV entry before your unmarried child turns 21, and the child turns 21 before visa issuance, it is possible that he or she may be treated as though he or she were under 21 for visa processing purposes.

A child who is already a U.S. citizen or LPR when you submit your DV entry will not require or be issued a Diversity Visa; you will not be penalized for either including or omitting such family members from your entry.

Failure to list all children who are eligible or listing someone who is not your child may make you ineligible for a DV, in which case your spouse and children will also be ineligible as Diversity Visa derivative applicants. See the Frequently Asked Questions for more information about family members.

See the Frequently Asked Questions for more information about completing your Electronic Entry for the DV–2026 Program.

Selection of Entries

Based on the allocations of available visas in each region and country, the Department of State will randomly select individuals by computer from among qualified entries. All DV–2026 entrants must go to the Entrant Status Check using the unique confirmation number saved from their DV–2026 online entry registration to find out whether their entry has been selected in the DV program. Entrant Status Check will be available on the E–DV website at *dvprogram.state.gov* from May 4, 2025, through at least September 30, 2026.

If your entry is selected, you will be directed to a confirmation page providing further instructions, including information about fees connected with immigration to the United States. Entrant Status Check will be the ONLY means by which the Department of State notifies selectees of their selection for DV–2026. The Department of State will not mail notification letters or notify selectees by email. U.S. embassies and consulates will not provide a list of selectees. Individuals who have not been selected also ONLY will be notified through Entrant Status Check.You are strongly encouraged to access Entrant Status Check yourself. Do not rely on someone else to check and inform you.

In order to immigrate, DV selectees must be admissible to the United States. The DS–260, Online Immigrant Visa and Alien Registration Application, electronically, and the consular officer, in person, will ask you questions about your eligibility to immigrate under U.S. law. These questions include criminal and security-related topics.

All selectees, including family members, must be issued visas by September 30, 2026, or prior to issuance of the approximately 55,000 visas available each year—whichever is earlier. Under no circumstances can the Department of State issue DVs nor can USCIS approve adjustments after this date, nor can family members obtain DVs to follow-to-join the principal applicant in the United States after this date. The U.S. government only authorizes issuance of approximately 55,000 diversity visas each year. Given the limited number of visas available, selectees should act promptly in submitting their materials and pursuing their application.

See the Frequently Asked Questions for more information about the selection process.

Submitting a Digital Photograph

You can take a new digital photograph or scan a recent (taken within the last six months) photograph with a digital scanner if it meets all of the standards below. DV entry photos must be of the same quality and composition as U.S. visa photos. You can see examples of acceptable photos at the following link: *https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/photos/photo-examples.html.* Do not submit a photograph older than six months or a photograph that does not meet all the standards described below. Submitting the same photograph that you submitted with a prior year's entry, a photograph that has been manipulated, or a photograph that does not meet the specifications below may make you ineligible for a DV.

Your photos or digital images must be:

- In color
- In focus
- Sized such that the head is between 1 inch and 1⅜ inches (22 mm and 35 mm) or 50 percent and 69 percent of the image's total height from the

bottom of the chin to the top of the head. View the Photo Composition Template for more size requirement details.
- Taken within the last six months to reflect your current appearance.
- Taken in front of a plain white or off-white background
- Taken in full-face view directly facing the camera
- With a neutral facial expression and both eyes open
- Taken in clothing that you normally wear on a daily basis
- Uniforms should not be worn in your photo, except religious clothing that is worn daily.
- Do not wear a hat or head covering that obscures the hair or hairline, unless worn daily for a religious purpose.Your full face must be visible, and the head covering must not cast any shadows on your face.
- Headphones, wireless hands-free devices, or similar items are not acceptable in your photo.
- Do not wear eyeglasses.
- If you normally wear a hearing device or similar articles, they may be worn in your photo.

Review the Photo Examples at this link: *https://travel.state.gov/content/travel/en/us-visas/visa-information-resources/photos/photo-examples.html* to see examples of acceptable and unacceptable photos. Photos copied or digitally scanned from driver's licenses or other official documents are not acceptable. In addition, snapshots, magazine photos, low quality vending machine, and full-length photographs are not acceptable.

You must upload your digital image as part of your entry. Your digital image must be:

- In JPEG (.jpg) file format
- Equal to or less than 240 kB (kilobytes) in file size
- In a square aspect ratio (height must equal width)
- 600 x 600 pixels in dimension

Do you want to scan an existing photo? In addition to the digital image requirements, your existing photo must be:

- 2 x 2 inches (51 x 51 mm)
- Scanned at a resolution of 300 pixels per inch (12 pixels per millimeter)

Taking photos of your baby or toddler—When taking a photo of your baby or toddler, no other person should be in the photo, and your child should be looking at the camera with his or her eyes open. Tip 1: Lay your baby on his or her back on a plain white or off-white sheet. This will ensure your baby's head is supported and provide a plain background for the photo. Make certain there are no shadows on your baby's face, especially if you take a picture from above with the baby lying down. Tip 2: Cover a car seat with a plain white or off-white sheet and take a picture of your child in the car seat. This will also ensure your baby's head is supported.

Frequently Asked Questions (FAQs)

Eligiblity

1. What do the terms''native'', and ''chargeability'' mean?

Native ordinarily means someone born in a particular country, regardless of the individual's current country of residence or nationality. Native can also mean someone who is entitled to be charged to a country other than the one in which he/she was born under the provisions of Section 202(b) of the Immigration and Nationality Act.

Because there is a numerical limitation on immigrants who enter from a country or geographic region, each individual is charged to a country. Your chargeability refers to the country towards which limitation you count. Your country of eligibility will normally be the same as your country of birth. However, you may choose your country of eligibility as the country of birth of your spouse, or the country of birth of either of your parents if you were born in a country in which neither parent was born and in which your parents were not resident at the time of your birth. These are the only three ways to select your country of chargeability.

Listing an incorrect country of eligibility or chargeability (*i.e.,* one to which you cannot establish a valid claim) may make you ineligible for DV–2026.

2. Can I still apply if I was not born in a qualifying country?

There are two circumstances in which you still might be eligible to apply. First, if your derivative spouse was born in an eligible country, you may claim chargeability to that country. As your eligibility is based on your spouse, you will only be issued an immigrant visa if your spouse is also eligible for and issued an immigrant visa. Both of you must enter the United States together, using your DVs. Similarly, your minor dependent child can be ''charged'' to a parent's country of birth.

Second, you can be ''charged'' to the country of birth of either of your parents as long as neither of your parents was born in or a resident of your country of birth at the time of your birth. People are not generally considered residents of a country in which they were not born or legally naturalized. For example, persons simply visiting, studying, or temporarily working in a country are not generally considered residents.

If you claim alternate chargeability through either of the above, you must provide an explanation on the E–DV Entry Form, in question #6.

Listing an incorrect country of eligibility or chargeability (*i.e.,* one to which you cannot establish a valid claim) will make you ineligible for a DV.

3. Why do natives of certain countries not qualify for the DV program?

DVs are intended to provide an immigration opportunity for persons who are not from ''high admission'' countries. U.S. law defines ''high admission countries'' as those from which a total of 50,000 persons in the Family-Sponsored and Employment-Based visa categories immigrated to the United States during the previous five years. Each year, the Department of Homeland Security (DHS) counts the family and employment immigrant admission and adjustment of status numbers for the previous five years to identify the countries that are considered ''high admission'' and whose natives will therefore be ineligible for the annual Diversity Visa program. Since DHS makes this calculation annually, the list of countries whose natives are eligible or not eligible may change from one year to the next.

4. How many DV–2026 visas will go to natives of each region and eligible country?

The Department of Homeland Security (DHS) determines the regional DV limits for each year according to a formula specified in Section 203(c) of the Immigration and Nationality Act (INA). The number of visas the Department of State eventually will issue to natives of each country will depend on the regional limits established, how many entrants come from each country, and how many of the selected entrants are found eligible for the visa. No more than seven percent of the total visas available can go to natives of any one country.

5. What are the requirements for education or work experience?

U.S. immigration law and regulations require that every DV entrant must have at least a high school education or its equivalent or have two years of work experience within the past five years in an occupation that requires at least two years of training or experience. A ''high school education or equivalent'' is defined as successful completion of a 12-year course of elementary and

secondary education in the United States OR the successful completion in another country of a formal course of elementary and secondary education comparable to a high school education in the United States. Only formal courses of study meet this requirement; correspondence programs or equivalency certificates (such as the General Equivalency Diploma [G.E.D.]) are not acceptable. You must present documentary proof of education or work experience to the consular officer at the time of the visa interview.

If you do not meet the requirements for education or work experience you will be ineligible for a DV, and your spouse and children will be ineligible for derivative DVs.

6. What occupations qualify for the DV program?

The Department of State will use the U.S. Department of Labor's (DOL) O*Net OnLine database to determine qualifying work experience. The O*Net OnLine database categorizes job experience into five ''job zones.'' While the DOL website lists many occupations, not all occupations qualify for the DV program. To qualify for a DV on the basis of your work experience, you must have, within the past five years, two years of experience in an occupation classified in a Specific Vocational Preparation (SVP) range of 7.0 or higher.

If you do not meet the requirements for education or work experience, you will be ineligible for a DV, and your spouse and children will be ineligible for derivative DVs.

7. How can I find the qualifying DV occupations in the Department of Labor's O*Net OnLine database?

When you are in O*Net OnLine, follow these steps to determine if your occupation qualifies:

- Under ''Find Occupations,''select ''Job Family'' from the pull down menu;
- Browse by ''Job Family,'' make your selection, and click ''GO''.
- Click on the link for your specific occupation; and
- Select the tab ''Job Zone'' to find the designated Job Zone number and Specific Vocational Preparation (SVP) rating range.

As an example, select Aerospace Engineers. At the bottom of the Summary Report for Aerospace Engineers, under the Job Zone section, you will find the designated Job Zone 4, SVP Range, 7.0 to <8.0. Using this example, Aerospace Engineering is a qualifying occupation.

For additional information, see the Diversity Visa—List of Occupations web page: *https://travel.state.gov/content/travel/en/us-visas/immigrate/diversity-visa-program-entry/diversity-visa-if-you-are-selected/diversity-visa-confirm-your-qualifications.html.*

8. Is there a minimum age to apply for the E–DV Program?

There is no minimum age to apply, but the requirement of a high school education or work experience for each principal applicant at the time of application will effectively disqualify most persons who are under age 18.

Completing Your Electronic Entry for the DV–2026 Program

9. When can I submit my entry?

The DV–2026 entry period will run from 12:00 p.m. (noon), Eastern Daylight Time (EDT) (GMT–4), Wednesday, October 4, 2024, until 12:00 p.m. (noon), Eastern Standard Time (EST) (GMT–5), Tuesday, November 7, 2024. Each year, millions of people submit entries. Restricting the entry period to these dates ensures selectees receive notification in a timely manner and gives both the visa applicants and our embassies and consulates time to prepare and complete cases for visa issuance.

We strongly encourage you to enter early during the registration period. Excessive demand at end of the registration period may slow the processing system. We cannot accept entries after noon EST on Tuesday, November 7, 2024.

10. *I am in the United States. Can I enter the DV program?*

Yes, an entrant may apply while in the United States or another country. An entrant may submit an entry from any location.

11. Can I only enter once during the registration period?

Yes, the law allows only one entry per person during each registration period. The Department of State uses sophisticated technology to detect multiple entries. Individuals with more than one entry will be ineligible for a DV.

12. May my spouse and I each submit a separate entry?

Yes, each spouse may each submit one entry if each meets the eligibility requirements. If either spouse is selected, the other is entitled to apply as a derivative dependent.

13. Which family members must I include in my DV entry?

Spouse: If you are legally married, you must list your spouse regardless of whether they live with you or intend to immigrate to the United States. You must list your spouse even if you currently are separated from them unless you are legally separated. Legal separation is an arrangement when a couple remains married but lives apart, following a court order. If you and your spouse are legally separated, your spouse will not be able to immigrate with you through the Diversity Visa program. You will not be penalized if you choose to enter the name of a spouse from whom you are legally separated. If you are not legally separated by a court order, you must include your spouse even if you plan to be divorced before you apply for the Diversity Visa, or your spouse does not intend to immigrate. Failure to list your eligible spouse or listing someone who is not your spouse will make you ineligible for a DV. If you are not married at the time of entry but plan on getting married in the future, do not list a spouse on your entry form, as this would make you ineligible for a DV.

If you are divorced or your spouse is deceased, you do not have to list your former spouse.

The only exception to this requirement is if your spouse is already a U.S. citizen or U.S. Lawful Permanent Resident. If your spouse is a U.S. citizen or Lawful Permanent Resident, do not list them in your entry. A spouse who is already a U.S. citizen or a Lawful Permanent Resident will not require or be issued a DV. Therefore, if you select ''married and my spouse IS a U.S. citizen or U.S. LPR'' on your entry, you will not be able to include further information on your spouse.

Children: You must list ALL your living children who are unmarried and under 21 years of age at the time of your initial DV entry, whether they are your natural children, your stepchildren (even if you are now divorced from that child's parent), your spouse's children, or children you have formally adopted in accordance with the applicable laws. List all children under 21 years of age at the time of your electronic entry, even if they no longer reside with you or you do not intend for them to immigrate under the DV program.You are not required to list children who are already U.S. citizens or Lawful Permanent Residents, though you will not be penalized if you do include them.

Parents and siblings of the entrant are ineligible to receive DV visas as dependents, and you should not include them in your entry.

If you list family members on your entry, they are not required to apply for a visa or to immigrate or travel with you. However, if you fail to include an

eligible dependent on your original entry or list someone who is not your dependent, you may be ineligible for a DV, in which case your spouse and children will be ineligible for derivative DVs. This only applies to those who were family members at the time the entry was submitted, not those acquired at a later date. Your spouse, if eligible to enter, may still submit a separate entry even though they are listed on your entry, and both entries must include details about all dependents in your family (see FAQ #13 above).

14. Must I submit my own entry, or can someone else do it for me?

We encourage you to prepare and submit your own entry, but you may have someone submit the entry for you. Regardless of whether you submit your own entry, or an attorney, friend, relative, or someone else submits it on your behalf, only one entry may be submitted in your name. You, as the entrant, are responsible for ensuring that information in the entry is correct and complete; entries that are not correct or complete may be disqualified. Entrants should keep their confirmation number, so they are able to check the status of their entry independently, using Entrant Status Check at *dvprogram.state.gov*. Entrants should retain access to the email account used in the E–DV submission.

15. I'm already registered for an immigrant visa in another category. Can I still apply for the DV program?

Yes.

16. Can I download and save the E–DV entry form into a word processing program and finish it later?

No, you will not be able to save the form into another program for completion and submission later. The E–DV Entry Form is a web-form only. You must fill in the information and submit it while online.

17. Can I save the form online and finish it later?

No. The E–DV Entry Form is designed to be completed and submitted at one time. You will have 60 minutes, starting from when you download the form, to complete and submit your entry through the E–DV website. If you exceed the 60-minute limit and have not submitted your complete entry electronically, the system discards any information already entered. The system deletes any partial entries so that they are not accidentally identified as duplicates of a later, complete entry. Read the DV instructions completely before you start to complete the form online so that you know exactly what information you will need.

18. I don't have a scanner. Can I send photographs to someone else to scan them, save them, and email them back to me so I can use them in my entry?

Yes, as long as the photograph meets the requirements in the instructions and is electronically submitted with, and at the same time as, the E–DV online entry. You must already have the scanned photograph file when you submit the entry online; it cannot be submitted separately from the online application. The entire entry (photograph and application together) can be submitted electronically from the United States or from overseas.

19. If the E–DV system rejects my entry, can I resubmit my entry?

Yes, you can resubmit your entry as long as your submission is completed by 12:00 p.m. (noon) Eastern Standard Time (EST) (GMT–5) on Tuesday, November 7, 2023. You will not be penalized for submitting a duplicate entry if the E–DV system rejects your initial entry. Given the unpredictable nature of the internet, you may not receive the rejection notice immediately. You can try to submit an application as many times as is necessary until a complete application is received and the confirmation notice sent. Once you receive a confirmation notice, your entry is complete, and you should NOT submit any additional entries.

20. How soon after I submit my entry will I receive the electronic confirmation notice?

You should receive the confirmation notice immediately, including a confirmation number that you must record and keep. However, the unpredictable nature of the internet can result in delays. You can hit the ''Submit'' button as many times as is necessary until a complete application is sent and you receive the confirmation notice. However, once you receive a confirmation notice, do not resubmit your information.

21. I hit the ''Submit'' button but did not receive a confirmation number. If I submit another entry, will I be disqualified?

If you did not receive a confirmation number, your entry was not recorded. You must submit another entry. It will not be counted as a duplicate. Once you receive a confirmation number, do not resubmit your information.

Selection

22. How do I know if I am selected?

You must use your confirmation number to access the Entrant Status Check available on the E–DV website at *dvprogram.state.gov* from May 4, 2025, through September 30, 2026. Entrant Status Check is the sole means by which the Department of State will notify you if you are selected, provide further instructions on your visa application, and notify you of your immigrant visa interview appointment date and time. To ensure the use of all available visas, the Department of State may use Entrant Status Check to notify additional selectees after May 4, 2025. Retain your confirmation number until September 30, 2026, in case of any updates. The only authorized Department of State website for official online entry in the Diversity Visa Program and Entrant Status Check is *dvprogram.state.gov.*

The Department of State will NOT contact you to tell you that you have been selected (see FAQ #25).

23. How will I know if I am not selected? Will I be notified?

The Department of State will NOT notify you directly if your entry is not selected. You must use the Entrant Status Check to learn whether you were selected. You may check the status of your DV–2026 entry through the Entrant Status Check on the E–DV website from May 4, 2025, until September 30, 2026. Keep your confirmation number until at least September 30, 2026. (Status information for the previous year's DV program, DV–2024, is available online through September 30, 2024.)

24. What if I lose my confirmation number?

You must have your confirmation number to access Entrant Status Check. A tool is now available in Entrant Status Check on the E–DV website that will allow you to retrieve your confirmation number via the email address with which you registered by entering certain personal information to confirm your identity.

U.S. embassies and consulates and the Kentucky Consular Center are unable to check your selection status for you or provide your confirmation number to you directly (other than through the Entrant Status Check retrieval tool). The Department of State is NOT able to provide a list of those selected to continue the visa process.

25. Will I receive information from the Department of State by email or by postal mail?

The Department of State will not send you a notification letter. The U.S. government has never sent emails to notify individuals that they have been selected, and there are no plans to use email for this purpose for the DV–2026 program. If you are a selectee, you will only receive email communications regarding your visa appointment after you have responded to the notification instructions on Entrant Status Check, if an immigrant visa interview becomes available. These emails will not contain information on the actual appointment date and time; they will simply tell you to go to the Entrant Status Check website for details. The Department of State may send emails reminding DV program applicants to check the Entrant Status Check for their status. However, such emails will never indicate whether the DV program applicant was selected or not.

Only internet sites that end with the ''.gov'' domain suffix are official U.S. government websites. Many other websites (*e.g.,* with the suffixes ''.com,'' ''.org,'' or ''.net'') provide immigration and visa-related information and services. The Department of State does not endorse, recommend, or sponsor any information or material on these other websites.

Warning: You may receive emails from websites that try to trick you into sending money or providing your personal information. You may be asked to pay for forms and information about immigration procedures, all of which are available free on the Department of State website, *travel.state.gov,* or through U.S. embassy or consulate websites. Additionally, organizations or websites may try to steal your money by charging fees for DV-related services. If you send money to one of these non-government organizations or websites, you will likely never see it again. Also, do not send personal information to these websites, as it may be used for identity fraud/theft.

Deceptive emails may come from people pretending to be affiliated with the Kentucky Consular Center or the Department of State. Remember that the U.S. government has never sent emails to notify individuals they have been selected, and there are no plans to use email for this purpose for the DV–2026 program.The Department of State will never ask you to send money by mail or by services such as Western Union, although applications to USCIS for adjustments of status do require mailing a fee. Visit this site for more details on adjusting status.

26. How many individuals will be selected for DV–2026?

For DV–2026, 55,000 Diversity Visas are available. The Department of State selects more than 55,000 selectees to account for selectees who will not qualify for visas and those who will not pursue their cases to completion. This means there will not be a sufficient number of visas for all those selected. The Department does this to try to use as many of the 55,000 DVs as we can.

You can check the E–DV website's Entrant Status Check to see if you have been selected for further processing and later to see the status of your case. Interviews for the DV–2026 program will begin in October 2025 for selectees who have submitted all pre-interview paperwork and other information as requested in the notification instructions. Selectees whose applications have been fully processed and have been scheduled for a visa interview appointment will receive a notification to obtain details through the E–DV website's Entrant Status Check four to six weeks before the scheduled interviews with U.S. consular officers overseas.

Each month, visas may be issued to those applicants who are eligible for issuance during that month, as long as visas are available. Once all the 55,000 diversity visas have been issued, the program will end. Visa numbers could be finished before September 2026. Selected applicants who wish to apply for visas must be prepared to act promptly on their cases. Being randomly chosen as a selectee does not guarantee that you will receive a visa or even the chance to make a visa application or to schedule a visa interview. Selection merely means that you may be eligible to apply for a Diversity Visa. If your rank number becomes eligible for final processing, you may have the chance to make an application and potentially maybe issued a Diversity Visa. A maximum of 55,000 visas may be issued to such applicants.

27. How will successful entrants be selected?

Official notifications of selection will be made through Entrant Status Check, available May 4, 2025, through September 30, 2026, on the E–DV website, *dvprogram.state.gov.* The Department of State does not send selectee notifications or letters by regular postal mail or by email. Any email notification or mailed letter stating that you have been selected to receive a DV that does not come from the Department of State is not legitimate. Any email communication you receive from the Department of State will direct you to review Entrant Status Check for new information about your application. The Department of State will never ask you to send money by mail or by services such as Western Union unless you are adjusting status. See this site for more information on adjusting status.

All entries received from each region are individually numbered; at the end of the entry period, a computer will randomly select entries from among all the entries received for each geographic region. Within each region, the first entry randomly selected will be the first case registered; the second entry selected will be the second case registered, etc. All entries received within each region during the entry period will have an equal chance of being selected. When an entry has been selected, the entrant will receive notification of his or her selection through the Entrant Status Check available starting May 4, 2025, on the E–DV website, *dvprogram.state.gov.* For individuals who are selected and who respond to the instructions provided online via Entrant Status Check, the Department of State's Kentucky Consular Center (KCC) will process the case until those selected are instructed to appear for visa interviews at a U.S. embassy or consulate or until those in the United States who are applying to adjust status apply with USCIS in the United States.

28. I am already in the United States. If selected, may I adjust my status with USCIS?

Yes, provided you are otherwise eligible to adjust status under the terms of Section 245 of the Immigration and Nationality Act (INA), you may apply to USCIS for adjustment of status to permanent resident. You must ensure that USCIS can complete action on your case, including processing of any overseas applications for a spouse or for children under 21 years of age, before September 30, 2026, since on that date your eligibility for the DV–2026 program expires. The Department of State will not approve any visa numbers or adjustments of status for the DV–2026 program after midnight EDT on September 30, 2026.

29. If I am selected, for how long am I entitled to apply for a Diversity Visa?

If you are selected in the DV–2026 program, you may apply for visa issuance only during U.S. government fiscal year 2026, which is from October

1, 2025, through September 30, 2026. We encourage selectees to apply for visas as early as possible once their program rank numbers become eligible. As noted above, once all the 55,000 diversity visas have been issued, the program will end.

Without exception, all selected and eligible applicants must obtain their visa or adjust status by the end of the fiscal year. There is no carry-over of DV benefits into the next year for persons who are selected but who do not obtain visas by September 30, 2026 (the end of the fiscal year). Also, spouses and children who derive status from a DV–2026 registration can only obtain visas in the DV category between October 1, 2025, and September 30, 2026. Individuals who apply overseas will receive an appointment notification from the Department of State through Entrant Status Check on the E–DV website four to six weeks before the scheduled appointment.

30. If a DV selectee dies, what happens to the case?

If a DV selectee dies at any point before he or she has traveled to the United States or adjusted status, the DV case is automatically closed. Any derivative spouse and/or children of the deceased selectee will no longer be entitled to apply for a DV visa. Any visas issued to them will be revoked.

Fees

31. How much does it cost to enter the Diversity Visa program?

There is no fee charged to submit an electronic entry. However, if you are selected and apply for a DiversityVisa, you must pay all required visa application fees at the time of visa application and interview directly to the consular cashier at the U.S. embassy or consulate. If you are a selectee already in the United States and you apply to USCIS to adjust status, you will pay all required fees directly to USCIS. If you are selected, you will receive details of required fees with the instructions provided through the E–DV website at *dvprogram.state.gov.*

32. How and where do I pay DV and immigrant visa fees if I am selected?

If you are a randomly selected entrant, you will receive instructions for the DV application process through Entrant Status Check at *dvprogram.state.gov.* You will pay all fees in person only at the U.S. embassy or consulate at the time of the visa application and interview. The consular cashier will immediately give you a U.S. government receipt for payment. Do not send money for DV fees to anyone through the mail, Western Union, or any other delivery service if you are applying for an immigrant visa at a U.S. embassy or consulate.

If you are selected and are already present in the United States and plan to file for adjustment of status with USCIS, the instructions page accessible through Entrant Status Check at *dvprogram.state.gov* contains separate instructions on how to mail adjustment of status application fees to a U.S. bank.

33. If I apply for a DV, but don't qualify to receive one, can I get a refund of the visa fees I paid?

No. Visa application fees cannot be refunded. You must meet all qualifications for the visa as detailed in these instructions. If a consular officer determines you do not meet requirements for the visa, or you are otherwise ineligible for the DV under U.S. law, the officer cannot issue a visa and you will forfeit all fees paid.

Ineligibilites

34. As a DV applicant, can I receive a waiver of any grounds of visa ineligibility? Does my waiver application receive any special processing?

DV applicants are subject to all grounds of ineligibility for immigrant visas specified in the Immigration and Nationality Act (INA). There are no special provisions for the waiver of any ground of visa ineligibility aside from those ordinarily provided in the INA, nor is there special processing for waiver requests. Some general waiver provisions for people with close relatives who are U.S.citizens or Lawful Permanent Resident aliens may be available to DV applicants in some cases, but the time constraints in the DV program may make it difficult for applicants to benefit from such provisions.

Fraud Warning and Scams

35. How can I report internet fraud or unsolicited emails?

Please visit the *econsumer.gov* website, hosted by the Federal Trade Commission in cooperation with consumer-protection agencies from 36 nations. You also may report fraud to the Federal Bureau of Investigation (FBI) Internet Crime Complaint Center. To file a complaint about unsolicited email, use the ''Telemarking and Spam'' complaint tool on the *econsumer.gov* website or visit the Department of Justice Unsolicited Commercial Email (''Spam'') web page for additional information and contacts.

Statistics

36. How many visas will be issued in DV–2026?

By law, a maximum of 55,000 visas are available each year to eligible persons.

Miscellaneous

37. If I receive a visa through the DV program, will the U.S. government pay for my airfare to the United States, help me find housing and employment, and/or provide healthcare or any subsidies until I am fully settled?

No. The U.S. government will not provide any of these services to you if you receive a visa through the DV program. If you are selected to apply for a DV, before being issued a visa you must demonstrate that you will not become a public charge in the United States. If you are selected and submit a diversity visa application, you should familiarize yourself with the Department of State's public guidance on how the likelihood of becoming a public charge is assessed and what evidence can be provided to demonstrate that you are not likely to become a public charge.

List of Countries/Areas by Region Whose Natives Are Eligible for DV–2026

The list below shows the countries and areas whose natives are eligible for DV–2026, grouped by geographic region. Dependent areas overseas are included within the region of the governing country. DHS identified the countries whose natives are not eligible for the DV–2026 program according to the formula in Section 203(c) of the INA. The countries whose natives are not eligible for the DV program (because they are the principal source countries of Family-Sponsored and Employment-Based immigration or ''high-admission'' countries) are noted after the respective regional lists.

Africa

Algeria
Angola
Benin
Botswana
Burkina Faso
Burundi
Cameroon
Cabo Verde
Central African Republic
Chad
Comoros
Congo
Congo, Democratic Republic of the
Cote D'Ivoire (Ivory Coast)
Djibouti
Egypt *

Equatorial Guinea
Eritrea
Eswatini
Ethiopia
Gabon
Gambia, The
Ghana
Guinea
Guinea-Bissau
Kenya
Lesotho
Liberia
Libya
Madagascar
Malawi
Mali
Mauritania
Mauritius
Morocco
Mozambique
Namibia
Niger
Rwanda
Sao Tome and Principe
Senegal
Seychelles
Sierra Leone
Somalia
South Africa
South Sudan
Sudan
Tanzania
Togo
Tunisia
Uganda
Zambia
Zimbabwe

In Africa, natives of Nigeria are not eligible for this year's Diversity Visa program.

Asia

Afghanistan
Bahrain
Bhutan
Brunei
Burma
Cambodia
Indonesia
Iran
Iraq
Israel *
Japan ***
Jordan *
Kuwait
Laos
Lebanon
Malaysia
Maldives
Mongolia
Nepal
North Korea
Oman
Qatar
Saudi Arabia
Singapore
Sri Lanka
Syria *
Taiwan **
Thailand
Timor-Leste
United Arab Emirates
Yemen

* Persons born in the areas administered prior to June 1967 by Israel, Jordan, Syria, and Egypt are chargeable, respectively, to Israel, Jordan, Syria, and Egypt. Persons born in the Gaza Strip are chargeable to Egypt; persons born in the West Bank are chargeable to Jordan; persons born in the Golan Heights are chargeable to Syria.

** Macau S.A.R. (Europe region, chargeable to Portugal) and Taiwan (Asia region) do qualify and are listed. For the purposes of the diversity program only, persons born in Macau S.A.R. derive eligibility from Portugal.

*** Persons born in the Habomai Islands, Shikotan, Kunashiri, and Etorofuare chargeable to Japan. Persons born in Southern Sakhalin are chargeable to Russia.

Natives of the following Asia Region countries are not eligible for this year's Diversity Visa program: Bangladesh, China (including Hong Kong), India, Pakistan, South Korea, Philippines, and Vietnam.

Europe

Albania
Andorra
Armenia
Austria
Azerbaijan
Belarus
Belgium
Bosnia and Herzegovina
Bulgaria
Croatia
Cyprus
Czech Republic
Denmark (including components and dependent areas overseas)
Estonia
Finland
France (including components and dependent areas overseas)
Georgia
Germany
Greece
Hungary
Iceland
Ireland
Italy
Kazakhstan
Kosovo
Kyrgyzstan
Latvia
Liechtenstein
Lithuania
Luxembourg
Macau Special Administrative Region **
North Macedonia
Malta
Moldova
Monaco
Montenegro
Netherlands (including components and dependent areas overseas)
Northern Ireland ***
Norway (including components and dependent areas overseas)
Poland
Portugal (including components and dependent areas overseas)
Romania
Russia ****
San Marino
Serbia
Slovakia
Slovenia
Spain
Sweden
Switzerland
Tajikistan
Turkey
Turkmenistan
Ukraine
United Kingdom (including dependent areas)
Uzbekistan
Vatican City

** Macau S.A.R. does qualify and is listed above and for the purposes of the diversity program only; persons born in Macau S.A.R. derive eligibility from Portugal.

*** For purposes of the diversity program only, Northern Ireland is treated separately. Northern Ireland does qualify and is listed among the qualifying areas.

**** Persons born in the Habomai Islands, Shikotan, Kunashiri, and Etorofu are chargeable to Japan. Persons born in Southern Sakhalin are chargeable to Russia.

North America

Bahamas, The

In North America, natives of Canada and Mexico are not eligible for this year's DV program.

Oceaania

Australia (including components and dependent areas overseas)
Fiji
Kiribati
Marshall Islands
Micronesia, Federated States of
Nauru
New Zealand (including components and dependent areas overseas)
Palau
Papua New Guinea
Samoa
Solomon Islands
Tonga
Tuvalu
Vanuatu

South American, Central America, and the Caribbean

Antigua and Barbuda

Argentina
Barbados
Belize
Bolivia
Chile
Costa Rica
Cuba
Dominica
Ecuador
Grenada
Guatemala
Guyana
Nicaragua
Panama
Paraguay
Peru
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Uruguay

Countries in this region whose natives are not eligible for this year's DV program:

Brazil, Colombia, Dominican Republic, El Salvador, Haiti, Honduras, Jamaica, Mexico, and Venezuela.

Rena E. Bitter,

Assistant Secretary, Consular Affairs, Department of State.

[FR Doc. 2024–22482 Filed 9–30–24; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 12556]

Meeting of the United States-Chile Environmental Affairs Council and Joint Commission for Environmental Cooperation

ACTION: Notice of the upcoming United States-Chile Environmental Affairs Council and Joint Commission for Environmental Cooperation meetings and request for comments; invitation to public session.

SUMMARY: The Department of State and the Office of the United States Trade Representative are providing notice that the parties to the United States-Chile Free Trade Agreement (FTA) intend to hold the tenth meeting of the Environmental Affairs Council (Council) established under Chapter 19 of the FTA, as well as the eighth meeting of the United States-Chile Joint Commission for Environmental Cooperation (Commission) established under the United States-Chile Environmental Cooperation Agreement (ECA), on October 29, 2024. The Council will review implementation of Chapter 19 (Environment) of the FTA, and the Commission will review implementation of the ECA. During the Council and Commission meetings, Members will discuss the progress made in implementing Chapter 19 obligations and the impacts of environmental cooperation. The Commission will also review activities completed under the Environmental Cooperation Work Program for 2021–2024 and approve the Environmental Cooperation Work Program for 2025–2028. More information on the Council and Commission is included below under **SUPPLEMENTARY INFORMATION**.

DATES: The public session of the Council and Commission will be held on October 30, 2024, from 10:00 a.m. to 12:00 noon Chile Standard Time (9:00 a.m. to 11:00 a.m. Eastern Daylight Time). Please contact Bradley Blecker and Tia Potskhverashvili for the location of this meeting and connection information for virtual participation. We request RSVPs and any written comments no later than October 21, 2024, in order to facilitate consideration.

ADDRESSES: Written comments or questions should use ''United States-Chile EAC/JCEC Meetings'' as the subject line and be submitted to both:

(1) Bradley Blecker, U.S. Department of State, Bureau of Oceans and International Environmental and Scientific Affairs, Office of Environmental Quality, by email to *BleckerBT@state.gov* and

(2) Tia Potskhverashvili, Office of Environment and Natural Resources, Office of the United States Trade Representative, by email to *tiapots@ustr.eop.gov.*

In your email, please include your full name and organization.

If you have access to the internet, you can view and comment on this notice by going to: *http://www.regulations.gov/#!home* and searching for docket number DOS–2024–0037.

FOR FURTHER INFORMATION CONTACT: Bradley Blecker, (202) 394–3316, *BleckerBT@state.gov* or Tia Potskhverashvili, (202) 395–5414, *tiapots@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION: The United States and Chile negotiated the United States-Chile FTA and United States-Chile ECA in concert, signing the FTA on June 6, 2003, in Miami, USA and the ECA on June 17, 2003, in Santiago, Chile. Article 19.3 of the FTA establishes an Environment Affairs Council (Council). The Council discusses implementation of Chapter 19 of the FTA, and its meetings include a public session. The Joint Commission for Environmental Cooperation (Commission) was established in Article II of the ECA. The Commission evaluates cooperative activities under the ECA, recommends options for improving cooperation, and establishes work programs that reflect national priorities and that identify the scope and focus of environmental cooperation activities. Commission meetings also include a public session.

The Council and Commission last met in August 2022 in Washington, DC, USA. The Council reviewed the implementation of the Environment Chapter of the FTA. The Commission approved the 2021–2024 Work Program, which built on previous successes and identified activities to achieve the long-term goals of: (1) strengthening effective implementation and enforcement of environmental laws and regulations; (2) encouraging development and adoption of sound environmental practices and technologies, particularly in business enterprises; (3) promoting sustainable development and management of environmental resources, including wild fauna and flora, protected wild areas, and other ecologically important ecosystems; and (4) encouraging civil society participation in the environmental decision-making process and environmental education.

If you would like to attend the public session, please notify Bradley Blecker and Tia Potskhverashvili at the email addresses listed above under the heading **ADDRESSES** and RSVP. Please include your full name and identify any organization or group you represent. In preparing comments, we encourage submitters to refer to:

- Chapter 19 of the FTA and
- the ECA.

These documents are available at: *https://www.state.gov/key-topics-office-of-environmental-quality-and-transboundary-issues/current-trade-agreements-with-environmental-chapters/#chile* and *https://ustr.gov/issue-areas/environment/bilateral-and-regional-trade-agreements.* Visit *http://www.state.gov* and the USTR website at *www.ustr.gov* for more information.

All interested persons are invited to attend the Council and Commission joint public session in person beginning at 10:00 a.m. Chile Standard Time (9:00 a.m. Eastern Daylight Time) on October 30, 2024, in Santiago, Chile. There will also be a link provided for those that would like to participate virtually. Attendees will have the opportunity to ask questions and discuss implementation of Chapter 19 and the ECA with Council and Commission Members and environmental cooperation implementers. At the public session, the Council will receive input from the public on current

environmental issues and ideas for future cooperation. The Department of State and Office of the United States Trade Representative invite written comments or suggestions regarding topics to be discussed at the meeting. In preparing comments, we encourage submitters to refer to Chapter 19 of the FTA and the ECA (available at *https://www.state.gov/key-topics-office-of-environmental-quality-and-transboundary-issues/current-trade-agreements-with-environmental-chapters/#chile*). Instructions on how to submit comments are under the heading **ADDRESSES** and RSVP.

Robert D. Wing,

Acting Director, Office of Environmental Quality, Department of State.

[FR Doc. 2024–22467 Filed 9–30–24; 8:45 am]

BILLING CODE 4710–09–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2023–0754; Summary Notice No. 2024–40]

Petition for Exemption; Summary of Petition Received; Global Aviation Technologies

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before October 21, 2024.

ADDRESSES: Send comments identified by docket number FAA–2023–0754 using any of the following methods:

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

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

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

FOR FURTHER INFORMATION CONTACT: Michael Harrison, AIR–646, Federal Aviation Administration, phone (206) 231–3368, email *michael.harrison@faa.gov.* This notice is published pursuant to 14 CFR 11.85.

Issued in in Kansas City, Missouri, on September 25, 2024.

James Wilborn,

Acting Manager, Technical Policy Branch, Policy and Standards Division, Aircraft Certification Service.

Petition for Exemption

Docket No.: FAA–2023–0754.

Petitioner: Global Aviation Technologies.

Section(s) of 14 CFR Affected: §§ 23.807(d)(1)(i), 23.807(e)(1)(2), and 23.812.

Description of Relief Sought: The petitioner requests relief from § 23.807(d)(1)(i), which is a commuter category airplane safety requirement, that requires an airplane with a total passenger seating capacity of 15 or fewer to have an emergency exit on each side of the cabin (as defined in § 23.807(b)) in addition to the passenger entry door.

The petitioner also requests relief from § 23.807(e)(1) and (2) which are commuter category airplane safety requirements, that require an airplane's ditching emergency exits to be above the waterline on each side or have a readily accessible overhead hatch.

The petitioner also requests relief from § 23.812, which contains the safety requirements for commuter category airplanes for emergency lighting.

The requested relief is for the Textron Model 390 airplane, Type Certificate A00010WI, which was certified as normal category. The petitioner's project would increase the gross weight of the airplane which would necessitate compliance with the requirements for commuter category airplanes. The petitioner is not increasing the airplane's passenger capacity.

[FR Doc. 2024–22447 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[AC 187–1T]

Schedule of Charges Outside the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) is announcing the availability of Advisory Circular (AC) 187–1T which transmits an updated schedule of charges for services of FAA Flight Standards Aviation Safety Inspectors outside the United States.

DATES: This AC is effective on October 1, 2024.

ADDRESSES: *How to obtain copies:* A copy of this publication may be downloaded from: *http://www.faa.gov/regulations_policies/advisory_circulars.*

FOR FURTHER INFORMATION CONTACT: Ms. Tish Thompkins, Flight Standards Service, AFS–50, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (202) 267–0996, *tish.thompkins@faa.gov.*

SUPPLEMENTARY INFORMATION: The advisory circular has been updated in accordance with the procedures listed in 14 CFR part 187, Appendix A.

Issued in Washington, DC, on September 26, 2024.

Robert Ruiz,

Deputy Executive Director, Flight Standards Service.

[FR Doc. 2024–22544 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0122]

Entry-Level Driver Training: State of Alaska Application for Renewal of Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice of final disposition; granting of renewal of exemption.

SUMMARY: FMCSA announces its final decision to renew the exemption granted to the State of Alaska from the limitations imposed by the commercial driver's license (CDL) regulations on the State's ability to issue restricted CDLs. The exemption renewal allows the State to waive specified portions of the CDL skills test for drivers who reside and operate in 14 defined geographic areas that lack the infrastructure to allow completion of the full skills test. Drivers who receive a restricted CDL under the provisions of the renewed exemption are also exempt from the Entry-Level Driver Training (ELDT) regulations. FMCSA concludes that renewing the exemption, subject to the terms and conditions set forth below, is likely to achieve a level of safety equivalent to or greater than the level of safety that would be achieved absent the exemption.

DATES: The exemption is effective for the period of December 30, 2024, through December 30, 2029.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; 202–366–2722. *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0122'' in the keyword box, and click ''Search.'' Next, sort the results by ''Posted (Newer-Older),'' choose the first notice listed, click ''Browse Comments.''

To view documents mentioned in this notice as being available in the docket, go to *www.regulations.gov,* insert the docket number ''FMCSA–2022–0122'' in the keyword box, click ''Search,'' and chose the document to review.

If you do not have access to the internet, you may view the docket online by visiting Dockets Operations on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. To be sure someone is there to help you, please call (202) 366–9317 or (202) 366–9826 before visiting Dockets Operations.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315(b) to grant exemptions from Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including safety analyses submitted by the applicant. The Agency must provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted and determines whether granting the exemption would likely maintain a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305(a)). The Agency must publish its decision in the **Federal Register** (49 CFR 381.315(b)). If granted, the notice will identify the regulatory provision(s) from which the applicant will be exempt, the effective period, and all terms and conditions of the exemption (49 CFR 381.315(c)(1)). If the exemption is denied, the notice will explain the reasons for the denial (49 CFR 381.315(c)(2)). The exemption may be renewed (49 CFR 381.300(b)).

III. Background

Current Regulatory Requirements

Under 49 CFR 383.3(e), Alaska may waive certain knowledge and skills test requirements and issue restricted CDLs, which are valid only within the State and are subject to certain conditions. To be eligible for a restricted CDL under 49 CFR 383.3(e), drivers must operate exclusively over roads that are not connected to the State highway system and to any highway or vehicular way with an average daily traffic volume greater than 499 (49 CFR 383.3(e)(2)). The Federal Highway Administration, FMCSA's predecessor agency, set the daily traffic volume limit at 499 in 1989 (54 FR 33230) and codified it in the FMCSRs in 1996 (61 FR 9546). Relatedly, ELDT regulations set forth in 49 CFR part 380, subparts F and G, establish minimum training standards for individuals applying for certain CDLs and define curriculum standards for theory and behind-the-wheel training. The ELDT curriculum in 49 CFR part 380, appendix A, section A3.1, requires Class A CDL applicants to demonstrate proficiency in proper techniques for initiating vehicle movement, executing left and right turns, changing lanes, navigating curves at speed, entry and exit on the interstate or controlled-access highway, and stopping the vehicle in a controlled manner. Under 49 CFR 380.603(a)(2), drivers issued a restricted CDL by Alaska are exempt from the ELDT requirements.

Under the CDL regulations, before receiving a CDL from a State, a driver must safely pass an on-road driving test. Requisite skills include: the ability to adjust speed to various driving conditions (49 CFR 383.113(c)(3) and the ability to choose a safe gap when driving around other vehicles (49 CFR 383.113(c)(4)).

IV. Application for Renewal of Exemption

The exemption renewal application was described in detail in a **Federal Register** notice published on June 18, 2024 (89 FR 51592) and will not be repeated here as the facts have not changed.

V. Public Comments

FMCSA requested public comments on the renewal application but received none.

VI. FMCSA Safety Analysis and Agency Decision

FMCSA has evaluated Alaska's application for renewal of its exemption. The current exemption was granted on December 28, 2022 (87 FR 79932), for the period December 28, 2022, through December 30, 2024. The Agency has monitored the records of drivers who were issued CDLs under this exemption and has found no deterioration of their safety records. Based on its analysis, the Agency has decided to renew Alaska's exemption request from 49 CFR 383.3(e)(2).

The Agency believes that granting a five-year renewal of the exemption allowing Alaska to issue restricted CDLs, subject to the terms and conditions set forth below, will maintain a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption (49 CFR 381.305(a)). The exemption applies only to CDL applicants who reside in one of the named remote geographical areas identified below and who operate only

within those defined areas. In addition, the State may waive only specified elements of the skills test affected by the lack of infrastructure in the identified communities. Individuals applying for a restricted CDL covered by this exemption are exempt from ELDT in accordance with 49 CFR 380.603(a)(2).

VII. Exemption Decision

A. Applicability of Exemption

FMCSA grants Alaska a renewal of an exemption from 49 CFR 383.3(e)(2) for a period of five years subject to the terms and conditions of this decision. Alaska may issue CDLs under this exemption only to drivers who reside in the following communities or areas: [1]

(1) Bethel—within the local Bethel community road network
(2) Prince of Wales Island
(3) Haines—within the Haines community, and along the Haines Highway corridor, ending at the Canadian Border
(4) Ketchikan—within the Ketchikan community and the airport area on the neighboring Annette Island
(5) King Salmon—within the local King Salmon community road network
(6) Kodiak Island
(7) Kotzebue—within the local Kotzebue community road network
(8) Nome—within the local Nome community road network
(9) Mitkof Island (Petersburg)
(10) Sitka—within the local Sitka community road network
(11) Skagway—within the Skagway community and along the Klondike Highway corridor, ending at the Canadian Border
(12) Unalaska Island
(13) Utqiavik—within the Utqiavik community road network
(14) Wrangell Island

B. Terms and Conditions

Alaska and drivers operating under this exemption are subject to the following terms and conditions:

(1) Alaska must comply with 49 CFR 383.133(b) and 383.135(a) of the knowledge test standards for testing procedures and methods set forth in 49 CFR part 383, subpart H, and must continue to administer knowledge tests that fulfill the content requirements of subpart G.

(2) Alaska may waive only the following portions of the CDL skills test, as set forth in 49 CFR 383.113(c), that cannot be performed due to infrastructure limitations in the identified communities or areas:

- ability to adjust speed to the configuration and condition of the roadway, weather and visibility conditions, traffic conditions, and motor vehicle, cargo, and driver conditions (§ 383.113(c)(3)); and
- ability to choose a safe gap for changing lanes, passing other vehicles, as well as for crossing or entering traffic (§ 383.113(c)(4));

(3) Drivers applying for a CDL to be issued under this exemption must reside in one of the 14 geographic areas identified in Section VII.A of this Notice;

(4) Drivers issued a restricted CDL under this exemption may operate only within the 14 geographic areas identified in Section VII.A of this Notice; and

(5) Drivers must comply with all other applicable Federal Motor Carrier Safety Regulations (49 CFR parts 350–399).

(6) Alaska must include notice on a restricted CDL issued pursuant to this exemption of the geographic area(s) in which the CDL holder may operate a CMV.

C. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

D. Notification to FMCSA

Alaska must provide to FMCSA, upon request, a list of all drivers issued CDLs under this exemption.

E. Termination

FMCSA does not believe that drivers covered by this exemption will experience any deterioration of their safety records. The Agency will, however, rescind the exemption if: (1) Alaska or drivers operating under the exemption fail to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objective of 49 U.S.C. 31136(e) and 31315(b).

Vincent G. White,

Deputy Administrator.

[FR Doc. 2024–22457 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–EX–P

[1] The locales were identified by the State of Alaska's Department of Administration, Division of Motor Vehicles (DMV) and independently verified by FMCSA as lacking the infrastructure for CDL applicants to perform the skills required by 49 CFR 383.113(c)(3) and (c)(4). FMCSA notes that the DMV initially identified 15 affected locales, but FMCSA determined that one of the 15 communities operates on major connected thoroughfares and the distances involved are not dissimilar to that experienced by many rural communities in the western United States. The DMV's letter identifying the affected areas is available in the docket of this Notice and can be accessed at *Regulations.gov.*

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0127]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: SHADOW LINE (SAIL); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 31, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0127 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0127 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0127, 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.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel SHADOW LINE is:

Intended Commercial Use of Vessel: Requester intends to offer passenger sailing charters.

Geographic Region Including Base of Operations: Florida, Rhode Island, Massachusetts. Base of Operations: St. Augustine, Florida.

Vessel Length and Type: 40′ Sail.

The complete application is available for review identified in the DOT docket as MARAD 2024–0127 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0127 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–22506 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0128]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: KORU (SAIL); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 31, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0128 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0128 and follow the instructions for submitting comments. Mail or Hand Delivery: Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0128, 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.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in

nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel KORU is:

Intended Commercial Use of Vessel: Requester intends to offer long-distance ocean-going passenger charters.

Geographic Region Including Base of Operations: Washington, Oregon, California, Hawaii, Maine, Massachusetts, New York, North Carolina, Puerto Rico. Base of Operations: Gig Harbor, Washington.

Vessel Length and Type: 49′ Sailing Catamaran.

The complete application is available for review identified in the DOT docket as MARAD 2024–0128 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0128 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–22507 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0131]

Request for Comments on the Renewal of a Previously Approved Collection: Application for Construction Reserve Fund and Annual Statements (CRF)

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection in accordance with the Paperwork Reduction Act of 1995. The proposed collection OMB 2133–0032 (Application for Construction Reserve Fund (CRF) and Annual Statements) is used to evaluate an applicant's eligibility for CRF program benefits. There was a reduction in the public burden since the last renewal. We are required to publish this notice in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments must be submitted on or before December 2, 2024.

ADDRESSES: You may submit comments identified by [Docket No. MARAD–2024–0131] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and 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.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *www.regulations.gov* including any personal information provided.

Comments are invited on: (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.

FOR FURTHER INFORMATION CONTACT: David M. Gilmore, Director, 202–366–5737, Office of Marine Financing, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, Email: *TDavid.gilmore@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Construction Reserve Fund (CRF) and Annual Statements.

OMB Control Number: 2133–0032.

Type of Request: Extension of a previously approved collection.

Abstract: The Construction Reserve Fund (CRF), authorized by 46 U.S.C. chapter 533, is a financial assistance program which provides tax deferral benefits to U.S.-flag operators. Eligible parties can defer the gain attributable to the sale or loss of a vessel, provided the proceeds are used to expand or modernize the U.S. merchant fleet. The primary purpose of the CRF is to promote the construction, reconstruction, reconditioning, or acquisition of merchant vessels which are necessary for national defense and to the development of U.S. commerce.

Respondents: Citizens who own or operate vessels in the U.S. foreign or domestic commerce who desire tax benefits under the CRF program must respond.

Affected Public: Owners or operators of vessels in the domestic or foreign commerce.

Estimated Number of Respondents: 10.

Estimated Number of Responses: 10.

Estimated Hours per Response: 9.

Annual Estimated Total Annual Burden Hours: 90.

Frequency of Response: Once Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.49.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–22514 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0123]

Request for Comments on the Renewal of a Previously Approved Collection: Centers of Excellence (CoE) for Domestic Maritime Workforce Training and Education Annual Application for Designation

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection in accordance with the Paperwork Reduction Act of 1995. The proposed collection OMB 2133–0549 (Centers of Excellence (CoE) for Domestic Maritime Workforce Training and Education Annual Application for Designation) is used to determine the eligibility of certain qualified training entities to apply for CoE designation. Due to a change in the CoE program designation duration, the total responses, respondents, and burden hours for this collection have reduced since the last renewal. We are required to publish this notice in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments must be submitted on or before December 2, 2024.

ADDRESSES: You may submit comments identified by Docket No. MARAD–2024–0123 through one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Search using the above DOT docket number and 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.

Instructions: All submissions must include the agency name and docket number for this rulemaking.

Note: All comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

Comments are invited on: (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.

FOR FURTHER INFORMATION CONTACT: Gerard Wall, Program Manager, 202–366–7273, Centers of Excellence, Room W23–470, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC, 20590, Email: *gerard.wall@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Centers of Excellence (CoE) for Domestic Maritime Workforce Training and Education Annual Application for Designation.

OMB Control Number: 2133–0549.

Type of Request: Extension of a previously approved collection.

Abstract: In order to implement section 3507 of the National Defense Authorization Act of 2018, Public Law 115–91 (the ''Act''), codified at 46 United States Code (U.S.C.) 51706 (previously designated as 46 U.S.C. 54102), MARAD developed a procedure to recommend to the Secretary the designation of eligible institutions as Centers of Excellence (CoE) for Domestic Maritime Workforce Training and Education. Pursuant to the Act, the Secretary of Transportation may designate certain eligible and qualified training entities as CoEs. Authority to administer the CoE program is delegated to MARAD in 49 Code of Federal Regulations (CFR) 1.93(a). The previously approved policy for collecting information is required to administer the Center of Excellence program which supports the DOT strategic goal of Economic Competitiveness, and the MARAD strategic goal to Maintain and Modernize the Maritime workforce.

Respondents: Postsecondary educational and vocational institutions, registered apprenticeship sponsors, and structured experiential learning training programs in certain eligible locations are eligible to apply for CoE designation. Additionally, ''maritime training centers previously designated as a 2021 CoE'' are eligible under the statute.

Affected Public: Postsecondary educational and vocational institutions, registered apprenticeship sponsors, and structured experiential learning training programs.

Estimated Number of Respondents: 50.

Estimated Number of Responses: 50.

Estimated Hours per Response: 48.

Annual Estimated Total Annual Burden Hours: 2,400.

Frequency of Response: Once Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.49.)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–22515 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0129]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: GOOD VIBES (MOTOR); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 31, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0129 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0129 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0129, 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.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel GOOD VIBES is:

Intended Commercial Use of Vessel: Requester intends to offer passenger charters.

Geographic Region Including Base of Operations: Florida. Base of Operations: Palmetto, Florida.

Vessel Length and Type: 42.3′ Motor yacht.

The complete application is available for review identified in the DOT docket as MARAD 2024–0129 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0129 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–22508 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2024–0130]

Coastwise Endorsement Eligibility Determination for a Foreign-Built Vessel: KAINANI (SAIL); Invitation for Public Comments

AGENCY: Maritime Administration, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to issue coastwise endorsement eligibility determinations for foreign-built vessels which will carry no more than twelve passengers for hire. A request for such a determination has been received by MARAD. By this notice, MARAD seeks comments from interested parties as to any effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. Information about the requestor's vessel, including a brief description of the proposed service, is listed below.

DATES: Submit comments on or before October 31, 2024.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD–2024–0130 by any one of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Search MARAD–2024–0130 and follow the instructions for submitting comments.
- *Mail or Hand Delivery:* Docket Management Facility is in the West Building, Ground Floor of the U.S. Department of Transportation. The Docket Management Facility location address is U.S. Department of Transportation, MARAD–2024–0130, 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.

Note: If you mail or hand-deliver your comments, we recommend that you include your name and a mailing address, an email address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

Instructions: All submissions received must include the agency name and specific docket number. All comments received will be posted without change to the docket at *www.regulations.gov,* including any personal information provided. For detailed instructions on submitting comments, or to submit comments that are confidential in nature, see the section entitled Public Participation.

FOR FURTHER INFORMATION CONTACT: Patricia Hagerty, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23–461, Washington, DC 20590. Telephone: (202) 366–0903. Email: *patricia.hagerty@dot.gov.*

SUPPLEMENTARY INFORMATION: As described in the application, the intended service of the vessel KAINANI is:

Intended Commercial Use of Vessel: Requester intends to offer passenger sail charters.

Geographic Region Including Base of Operations: Hawaii. Base of Operations: Kawaihae, Hawaii.

Vessel Length and Type: 33′ Monohull sail.

The complete application is available for review identified in the DOT docket as MARAD 2024–0130 at *https://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the employment of the vessel in the coastwise trade to carry no more than 12 passengers will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, MARAD will not issue an approval of the vessel's coastwise endorsement eligibility. Comments should refer to the vessel name, state the commenter's interest in the application, and address the eligibility criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

Public Participation

How do I submit comments?

Please submit your comments, including the attachments, following the instructions provided under the above heading entitled **ADDRESSES**. Be advised that it may take a few hours or even days for your comment to be reflected on the docket. In addition, your comments must be written in English. We encourage you to provide concise comments and you may attach additional documents as necessary. There is no limit on the length of the attachments.

Where do I go to read public comments, and find supporting information?

Go to the docket online at *https://www.regulations.gov,* keyword search MARAD–2024–0130 or visit the Docket Management Facility (see **ADDRESSES** for hours of operation). We recommend that you periodically check the Docket for new submissions and supporting material.

Will my comments be made available to the public?

Yes. Be aware that your entire comment, including your personal identifying information, will be made publicly available.

May I submit comments confidentially?

If you wish to submit comments under a claim of confidentiality, you should submit the information you claim to be confidential commercial information by email to *SmallVessels@dot.gov.* Include in the email subject heading ''Contains Confidential Commercial Information'' or ''Contains CCI'' and state in your submission, with specificity, the basis for any such confidential claim highlighting or denoting the CCI portions. If possible, please provide a summary of your submission that can be made available to the public.

In the event MARAD receives a Freedom of Information Act (FOIA) request for the information, procedures described in the Department's FOIA regulation at 49 CFR 7.29 will be followed. Only information that is ultimately determined to be confidential under those procedures will be exempt from disclosure under FOIA.

Privacy Act

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). For information on DOT's compliance with the Privacy Act, please visit *https://www.transportation.gov/privacy.*

(Authority: 49 CFR 1.93(a), 46 U.S.C. 55103, 46 U.S.C. 12121)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2024–22509 Filed 9–30–24; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–OCC–2024–0016]

Mutual Savings Association Advisory Committee

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice of Federal advisory committee meeting.

SUMMARY: The OCC announces a meeting of the Mutual Savings Association Advisory Committee (MSAAC).

DATES: A public meeting of the MSAAC will be held on Tuesday, October 22, 2024, beginning at 8:30 a.m. Eastern

Daylight Time (EDT). The meeting will be in person and virtual.

ADDRESSES: The OCC will host the October 22, 2024 meeting of the MSAAC at the OCC's offices at 400 7th Street SW, Washington, DC 20219 and virtually.

FOR FURTHER INFORMATION CONTACT: Michael R. Brickman, Deputy Comptroller for Specialty Supervision, (202) 649–5420, Office of the Comptroller of the Currency, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services. You also may access prior MSAAC meeting materials on the MSAAC page of the OCC's website.[1]

SUPPLEMENTARY INFORMATION: Under the authority of the Federal Advisory Committee Act (the Act), 5 U.S.C. 1001 *et seq.,* and the regulations implementing the Act at 41 CFR part 102–3, the OCC is announcing that the MSAAC will convene a meeting on Tuesday, October 22, 2024. The meeting is open to the public and will begin at 8:30 a.m. EDT. The purpose of the meeting is for the MSAAC to advise the OCC on regulatory or other changes the OCC may make to ensure the health and viability of mutual savings associations. The agenda includes a discussion of current regulatory and policy topics of interest to the industry, for example, updates on economic trends affecting mutual savings associations and the implementation of rules and policies that affect the operations and consumer compliance activities of mutual savings associations. The agenda also includes a Roundtable discussion with MSAAC members and OCC staff.

Members of the public may submit written statements to the MSAAC by emailing them to *MSAAC@occ.treas.gov.* The OCC must receive written statements no later than 5:00 p.m. EDT on Thursday, October 17, 2024.

Members of the public who plan to attend the meeting should contact the OCC by 5:00 p.m. EDT on Thursday, October 17, 2024, to inform the OCC of their desire to attend the meeting and whether they will attend in person or virtually, and to obtain information about participating in the meeting. Members of the public may contact the OCC via email at *MSAAC@occ.treas.gov* or by telephone at (202) 649–5420. Attendees should provide their full name, email address, and organization, if any. For persons who are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to arrange telecommunications relay services for this meeting.

Michael J. Hsu,

Acting Comptroller of the Currency.

[FR Doc. 2024–22531 Filed 9–30–24; 8:45 am]

BILLING CODE 4810–33–P

[1] *https://occ.gov/topics/supervision-and-examination/bank-management/mutual-savings-associations/mutual-savings-association-advisory-committee.html.*

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 2015–4

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning, Property Qualifying for the Energy Credit under section 48 (Specifically, Performance & Quality for Small Wind Energy Property).

DATES: Written comments should be received on or before December 2, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–2259—Property Qualifying for the Energy Credit under Section 48 (Specifically, Performance & Quality for Small Wind Energy Property)'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Property Qualifying for the Energy Credit under Section 48 (Specifically, Performance & Quality for Small Wind Energy Property).

OMB Number: 1545–2259.

Notice Number: 2015–4.

Abstract: Section 48(a)(3)(D) of the Internal Revenue Code allows a credit for energy property which meets, among other requirements, the performance and quality standards (if any) which have been prescribed by the Secretary by regulations (after consultation with the Secretary of Energy), and are in effect at the time of the acquisition of the property. Energy property includes small wind energy property. This notice provides the performance and quality standards that small wind energy property must meet to qualify for the energy credit under section 48.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 160.

Estimated Time per Response: 2 hours, 30 minutes.

Estimated Total Annual Burden Hours: 400.

The following paragraph applies to all of 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 as long as 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 25, 2024.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2024–22458 Filed 9–30–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4810

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning, Request for Prompt Assessment Under Internal Revenue Code section 6501(d).

DATES: Written comments should be received on or before December 2, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Include ''OMB Number 1545–0430—Request for Prompt Assessment Under Internal Revenue Code Section 6501(d)'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Request for Prompt Assessment Under Internal Revenue Code Section 6501(d).

OMB Number: 1545–0430.

Form Number: 4810.

Abstract: Fiduciaries representing a dissolving corporation or a decedent's estate may request a prompt assessment of tax under Internal Revenue Code section 6501(d). Form 4810 is used to help locate the return and expedite the processing of the taxpayer's request.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, farms, and the Federal government.

Estimated Number of Respondents: 4,000.

Estimated Time per Respondent: 6 hours, 12 minutes.

Estimated Total Annual Burden Hours: 24,800.

The following paragraph applies to all of 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 as long as 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 25, 2024.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2024–22456 Filed 9–30–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8994

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service (IRS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is oliciting comments concerning, Employer Credit for Paid Family and Medical Leave.

DATES: Written comments should be received on or before December 2, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.*

Include ''OMB Number 1545–2282—Employer Credit for Paid Family and Medical Leave'' in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this collection should be directed to Martha R. Brinson, at (202) 317–5753, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *Martha.R.Brinson@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Employer Credit for Paid Family and Medical Leave.

OMB Number: 1545–2282.

Form Number: 8,994.

Abstract: The law establishes a credit for employers that provide paid family and medical leave to employees. This is a general business credit employers may claim, based on wages paid to qualifying employees while they are on family and medical leave, subject to certain conditions. The credit is for wages paid beginning after December 31, 2017, and it is not available for wages paid beginning after December 31, 2019.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 660,000.

Estimated Time per Respondent: 1 hr., 55 mins.

Estimated Total Annual Burden Hours: 1,280,400.

The following paragraph applies to all of 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 as long as 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the

request for OMB approval. Comments will be of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 25, 2024.

Martha R. Brinson,

Tax Analyst.

[FR Doc. 2024–22459 Filed 9–30–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8864

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 general public and other Federal agencies to take this opportunity to comment on information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Form 8864, Biodiesel, Renewable Diesel, or Sustainable Aviation Fuels Credit.

DATES: Written comments should be received on or before December 2, 2024 to be assured of consideration.

ADDRESSES: Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224 or by email to *pra.comments@irs.gov* Include OMB control number 1545–1924 or Form 8864 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Molly Stasko, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or at (202) 317–6206 or through the internet at *Molly.J.Stasko@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Biodiesel, Renewable Diesel, or Sustainable Aviation Fuels Credit.

OMB Number: 1545–1924.

Form Number: 8864.

Abstract: The Inflation Reduction Act of 2022 (IRA 2022) extended the section 40A biodiesel and renewable diesel fuels credit. The credit consists of the biodiesel credit, renewable diesel credit, biodiesel mixture credit, renewable diesel mixture credit and small Agri-biodiesel producer credit. IRA 2022 created a sustainable aviation fuel credit under section 40B. Claim the credit for the tax year in which the sale or use occurs. Partnership, S Corporations, Cooperatives, estates, and trusts must file this form to claim the credit.

Current Actions: There are no changes to form at this time, however the agency has updated the estimated number of responses based on the most recent filing data.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 4417.

Estimated Time per Respondent: 4 hrs., 13 mins.

Estimated Total Annual Burden Hours: 18,640.

The following paragraph applies to all 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 as long as 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.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: September 25, 2024.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2024–22455 Filed 9–30–24; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In accordance with section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

On the basis of the best information currently available to the Department of the Treasury, the following countries require or may require participation in, or cooperation with, an international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986).

Iraq
Kuwait
Lebanon
Libya
Qatar
Saudi Arabia
Syria
Yemen

Lindsay Kitzinger,

International Tax Counsel (Tax Policy).

[FR Doc. 2024–22428 Filed 9–30–24; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–NEW]

Agency Information Collection Activity: Veterans Group Life Insurance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration(VBA), Department of

Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Comments must be received on or before December 2, 2024.

ADDRESSES: Comments must be submitted through *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Nancy Kessinger, 202–461–8900, *nancy.kessinger@va.gov*.

VA PRA information: Maribel Aponte, 202–461–8900, *vacopaperworkreduact@va.gov*.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Veterans Group Life Insurance, VA Form SGLV 8714.

OMB Control Number: 2900–NEW. https://www.reginfo.gov/public/do/PRASearch (Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: New collection.

Abstract: This form will be used by the Department of Veterans Affairs Insurance Center (VAIC) to enable a third party to act on behalf of the insured Veteran/beneficiary. Many of our customers are of advanced age or suffer from limiting disabilities and need assistance from a third party to conduct their affairs. The information collected provides an optional service and is not required to receive insurance benefits.

Affected Public: Individuals and households.

Estimated Annual Burden: 12,500 hours.

Estimated Average Burden per Respondent: 30 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 25,000.

Authority: 44 U.S.C. 3501 *et seq.*

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2024–22494 Filed 9–30–24; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Department of Veterans Affairs Voluntary Service National Advisory Committee, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act, 5 U.S.C. ch. 10, that the Executive Committee of the VA Voluntary Service (VAVS) National Advisory Committee (NAC) will meet October 24–25, 2024 at the Disabled American Veterans Washington Headquarters located at 1300 I Street NW, Suite 400 West, Washington, DC 20005. The meeting sessions will begin and end as follows:

Meeting date(s):	Meeting time(s):
Thursday, October 24, 2024	9:00 a.m. to 5:00 p.m. Eastern Standard Time (EST).
Friday, October 25, 2024	9:00 a.m. to 12:30 p.m. EST.

The meeting sessions are open to the public.

The Executive Committee, a working group of the VAVS NAC, comprised of 20 major Veteran, civic, and service organizations, advises the Secretary, through the Under Secretary for Health, on the coordination and promotion of volunteer activities and strategic partnerships within VA health care facilities, in the community, and on matters related to volunteerism and charitable giving.

Agenda topics will include the NAC goals and objectives; review of minutes from the May 14–16, 2024 meeting; briefings from VA Chief of Staff, VA Advisory Committee Management Office, and VA Center for Development and Civic Engagement (CDCE); subcommittee reports; review of standard operating procedures; assessment of member organization data; innovation for optimal access to care; cross committee collaboration among Federal advisory committees; extending programming into communities; and any new business.

The public may submit written statements for the Committee's review to Sabrina C. Clark, Ph.D., Designated Federal Officer, VA Center for Development and Civic Engagement (15CDCE), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, or email at *Sabrina.Clark@va.gov*. Any member of the public wishing to attend the meeting or seeking additional information should contact Dr. Clark at 202–536–8603.

Dated: September 25, 2024.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2024–22403 Filed 9–30–24; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 89 Tuesday,

No. 190 October 1, 2024

Part II

Department of Transportation

Rural Business-Cooperative Service

14 CFR Parts 11, 61, 63, et al.

Removal of Expiration Date on a Flight Instructor Certificate; Additional Qualification Requirements To Train Initial Flight Instructor Applicants; and Other Provisions; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 61, 63, 65, and 141

[Docket No. FAA–2023–0825; Amdt. Nos. 11–67, 61–155, 63–47, 65–65, and 141–25]

RIN 2120–AL25

Removal of Expiration Date on a Flight Instructor Certificate; Additional Qualification Requirements To Train Initial Flight Instructor Applicants; and Other Provisions

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

ACTION: Final rule.

SUMMARY: This action removes the expiration date on flight instructor certificates to align with other airman certificates. Additional amendments include updating renewal requirements to recent experience requirements, introducing a new method for establishing recent flight instructor experience, and allowing instructors with a lapse of no more than three months to reinstate privileges via an approved flight instructor refresher course instead of a practical test. This final rule also adds two new methods for flight instructors to qualify to train initial applicants. Finally, this final rule relocates and codifies the requirements for relief for U.S. military and civilian personnel who seek to renew their expired flight instructor certificate.

DATES: This final rule is effective December 1, 2024, except that amendatory instruction 10 is effective March 1, 2027.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see ''How to Obtain Additional Information'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Allan G. Kash, Training and Certification Group, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–1100; email *allan.g.kash@faa.gov.*

SUPPLEMENTARY INFORMATION:

List of Abbreviations and Acronyms Frequently Used In This Document

AATD: Advanced Aviation Training Device
ATD: Aviation Training Device
BATD: Basic Aviation Training Device
FFS: Full Flight Simulator
FIEQTP: Flight Instructor Enhanced Qualification Training Program
FIRC: Flight Instructor Refresher Course
FSTD: Flight Simulation Training Device
FTD: Flight Training Device
NPRM: Notice of Proposed Rulemaking
WINGS: FAA's Pilot Proficiency Program

Table of Contents

I. Executive Summary

A. Purpose of the Regulatory Action

This final rule amends part 61 of title 14 of the Code of Federal Regulations (14 CFR) by revising the expiration, renewal, and reinstatement requirements for flight instructor certificates and revising the qualifications for flight instructors training initial flight instructor applicants.

As explained in section III.A. of the preamble, the FAA will remove the expiration date on flight instructor certificates to align with other airmen certificates. The flight instructor certificate renewal requirements will become recent experience requirements, which flight instructors must establish at least once every 24 calendar months. The final rule also adds a new method for flight instructors to establish recent experience by serving as a flight instructor in an FAA-sponsored pilot proficiency program. Additionally, while the FAA is not removing any existing allowances to renew a flight instructor certificate, as is discussed in section III.A. of this preamble, this final rule amends the reinstatement requirements of § 61.199 by allowing flight instructors to reinstate their flight instructor privileges by taking an approved flight instructor refresher course (FIRC), provided their recent experience has not lapsed for more than three calendar months.

As discussed in section IV.E. of the preamble, this final rule also revises the qualifications for instructors seeking to train initial flight instructor applicants. Specifically, the FAA is updating the existing qualification method by adding two new options. The first new option is based on training and endorsing successful applicants for practical tests. The FAA is also introducing a second new option as a method of qualification by completion of a new training program designed to prepare flight instructors to train initial flight instructor applicants.

Finally, the FAA will relocate and codify Special Federal Aviation Regulation (SFAR) No. 100–2, *Relief for U.S. Military and Civilian Personnel who are Assigned Outside the United States in Support of U.S. Armed Forces Operations,* into parts 61, 63, and 65, respectively. The codification of SFAR No. 100–2 is further discussed in section IV.F. of this preamble.

B. Changes Made in This Final Rule

This final rule adopts the amendments largely as proposed. The FAA notes three revisions to the rule, as explained in section IV. of this preamble.

This final rule revises the recent experience requirements based on instructional activity in an FAA-sponsored pilot proficiency program to clarify that 15 activities, rather than 15 hours of flight training, are required under the pilot proficiency program.

Additionally, this final rule revises § 61.197(b)(2)(i) to clarify that the 80 percent passage rate is based on all practical test applicants endorsed by the

recommending instructor in the preceding 24 calendar months.

The FAA has identified an unintended omission in the NPRM regarding a reference to flight instructor certificate expiration in § 61.51(h)(2)(ii). To correct this, the FAA will implement a two-phased amendment to this rule. The first phase will ensure that flight instructors who hold a flight instructor certificate with an expiration date and flight instructors who hold a flight instructor certificate without an expiration date will remain compliant with the requirements of § 61.51 when logging training time in pilot logbooks after the effective date of the final rule. The second phase will begin 27 months after the effective date of the final rule. This second amendment will remove references to the flight instructor certificate expiration date from § 61.51. The detailed discussion and rationale behind these changes are further discussed in section IV.G. of this preamble.

Finally, this final rule more precisely describes the timeframe that a person may exercise the relief set forth in new § 61.40, currently SFAR 100–2, as (1) while the person serves in an operation as set forth in § 61.40(b)(1), or (2) six calendar months after returning to the United States.

The FAA notes that there is no cost impact associated with any of the changes adopted in this final rule.

C. Summary of the Costs and Benefits

The FAA estimates this rule to result in $5.6 million, discounted over five years, in cost savings to FAA and industry, which includes removing the expiration date on the flight instructor certificate as well as allowing flight instructors whose recent experience has lapsed by no more than three calendar months to reinstate flight instructor privileges by taking a FIRC. These cost savings are driven primarily by the cost savings to industry of removing the expiration date on the flight instructor certificate.

II. Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code (49 U.S.C.). Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

The FAA is issuing this final rule under the authority described in 49 U.S.C. 106(f), which establishes the authority of the Administrator to promulgate regulations and rules; 49 U.S.C. 44701(a)(5), which requires the Administrator to promote safe flight of civil aircraft in air commerce by prescribing regulations and setting minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security; and 49 U.S.C. 44703(a), which requires the Administrator to prescribe regulations for the issuance of airman certificates when the Administrator finds, after investigation, that an individual is qualified for and physically able to perform the duties related to the position authorized by the certificate. This rulemaking is within the scope of that authority. Finally, the FAA has determined that this rule satisfies the requirements of section 820 of the FAA Reauthorization Act of 2024, which requires the FAA to promulgate this final rule within 18 months after the date of enactment of the Act, to at a minimum, update part 61, Code of Federal Regulations, to remove the expiration date on the flight instructor certificate, and replace the requirement that a flight instructor renews their flight instructor certificate with appropriate recent experience requirements.[1]

III. Background

A. Statement of the Problem

As discussed in the notice of proposed rulemaking (NPRM),[2] under § 61.19(d), a flight instructor certificate expires 24 calendar months from the month in which it was issued, renewed, or reinstated, as appropriate, except as provided in § 61.197(b).[3] Therefore, the FAA currently issues physical flight instructor certificates every time a flight instructor renews or reinstates their flight instructor certificate, which is at least every 24 calendar months, resulting in a process that is burdensome, inefficient, and costly to the FAA. Specifically, this process requires the FAA to process, print, and mail new certificates to all flight instructor certificate holders. Further, most airman certificates under part 61 do not have expiration dates; rather, a person may exercise the privileges of an airman certificate only if that person meets the appropriate recent experience requirements of part 61 specific to the operation or activity.

Industry advocates have expressed support for removing the expiration date on a flight instructor certificate and amending the renewal and reinstatement requirements, asserting that an expiration date on a flight instructor certificate is overly burdensome, costly, and provides no safety benefits. As described in the NPRM, on September 14, 1999, and again on March 13, 2000, the Aircraft Owners and Pilots Association (AOPA) petitioned the FAA to remove the expiration date on a flight instructor certificate. AOPA expressed concern that many current and former flight instructors perceive the existing FAA regulatory requirement for certificate expiration and reinstatement as a significant disincentive to renewing an expired flight instructor certificate. AOPA's petition also asserted that flight instructor certificate expirations have substantially reduced the number of otherwise qualified and experienced part-time flight instructors.

In addition to AOPA's position on the flight instructor expiration, AOPA petitioned the FAA to consider adding a three-month grace period to allow flight instructors to reestablish recent experience by completing an FIRC within those three months. Under the current rules, flight instructors who do not renew their certificates before expiration must successfully complete a full practical test to reinstate their flight instructor certificate, a process that can be both expensive and time-consuming. AOPA asserted that a three-month grace period would directly benefit the public by encouraging many flight instructors with expired certificates to rejoin the instructional community and eliminating the need for over 9,700 salary hours of unnecessary administrative processing while not adversely affecting the quality of flight training or flight safety.

As discussed in the NPRM to this final rule, the FAA published an NPRM in 2007 after receipt of AOPA's petitions[4] that would have issued flight instructor certificates without an expiration date; however, the FAA decided to withdraw the proposal and implemented a simplified application process. However, this simplified application process did not sufficiently address the administrative burden on the FAA and flight instructors of renewing flight instructor certificates. Additionally, retaining the expiration dates on flight instructor certificates is inconsistent with most airman certificates issued under part 61, which

[1] Section 820 of Public Law 118–63, 138 Stat. 1330 (49 U.S.C. 44939 note).

[2] Removal of Expiration Date on a Flight Instructor Certificate; Additional Qualification Requirements to Train Initial Flight Instructor Applicants; and Other Provisions NPRM, 88 FR 32983 (May 23, 2023).

[3] Section 61.197(b) prescribes requirements for determining the expiration month of a renewed flight instructor certificate.

[4] *See* 88 FR at 32985 for additional discussion on the 2007 rulemaking action.

do not have expiration dates. Furthermore, the reinstatement requirements continue to provide a disincentive for flight instructors to reinstate their flight instructor certificates shortly after expiration because the only option available to reinstate a flight instructor certificate is to pass a flight instructor practical test.

The FAA also recognizes the need for more qualified instructors to train new flight instructor applicants. Currently, flight instructors are required to have a minimum of 24 calendar months of instructional experience before they are eligible to train new flight instructor applicants. The flight training industry is impacted by the supply of flight instructors necessary to support future growth in aviation.

Finally, in Special Federal Aviation Regulation (SFAR) No. 100–2, the FAA recognizes the unique circumstances of certain members of the armed forces deployed outside the United States who may be unable to renew their certificates due to military commitments. An SFAR is typically expected to be effective for a discrete period of time to address temporary circumstances. However, as evident from the history of SFAR No. 100–2, discussed at length in the NPRM,[5] the FAA finds an ongoing need to retain this relief more permanently due to ongoing overseas military operations. Therefore, the FAA has determined that the content of SFAR No. 100–2 should be incorporated within part 61 in lieu of the SFAR.

B. Summary of the NPRM

The FAA published an NPRM on May 23, 2023.[6] The FAA proposed to remove the expiration date from flight instructor certificates, revise the renewal requirements for flight instructors, amend the flight instructor privileges to train initial flight instructor applicants, and incorporate the provisions of SFAR No. 100–2 within part 61. The initial comment period closed on June 22, 2023.

Commenters were instructed to provide comments on or before June 22, 2023 (*i.e.,* 30 days from the date of publication of the NPRM). However, during the original comment period, the FAA received a request to extend the comment period to provide additional time to the public to comment on the proposed rule.[7] Specifically, the comment proposed several recommendations in lieu of the proposed rulemaking. One such recommendation urged the FAA to convene a working group and consult with the flight training industry and, at a minimum, an extension of the comment period until after AirVenture 2023.[8] The FAA reopened the comment period for an additional thirty (30) days, from November 1, 2023, through December 1, 2023.[9] This decision aligns with the guidance of Executive Order 13563,[10] which advocates for a minimum 60-day comment period to ensure the public has a meaningful opportunity to comment. With this extension, the total comment period was 60 days.

C. General Overview of Comments

One hundred sixty commenters responded to this NPRM during the initial 30-day comment period. The FAA received nine additional comments during the reopened comment period.[11]

Nineteen comments were from organizations, and the remainder were from individuals. The organizations who commented included industry advocacy groups, flight training providers, and flight instructor refresher course (FIRC) providers. Commenters included Air Line Pilots Association, International (ALPA); Aircraft Owners and Pilots Association (AOPA); AceCFI FIRC, American Flyers; Aviation Seminars; Eastern Kentucky University; Embry-Riddle Aeronautical University; Experimental Aircraft Association (EAA); Gleim Publications, Inc.; King Schools, Inc.; Lake Superior Helicopters; LeTourneau University; Liberty University School of Aeronautics; National Association of Flight Instructors (NAFI); Soaring Safety Foundation (SSF); Society of Aviation Flight Educators (SAFE); University of North Dakota; Western Michigan University; and Wright Base Flight Training.

The FAA received 34 comments generally supporting the rule as proposed without recommending changes. Fifty-seven commenters opposed some portion of the proposed rule, although several of these commenters also supported portions of the proposed rule. Ninety commenters requested clarifications, changes, or additional provisions. A discussion of comments requesting specific clarifications, changes, or revisions to the NPRM and the FAA's responses to these requests is in section IV. of this preamble.

IV. Discussion of Comments and the Final Rule

A. Removal of Expiration Date on Flight Instructor Certificates (§ 61.19)

The NPRM proposed to remove the expiration date from flight instructor certificates, as most airman certificates issued under part 61 do not have expiration dates. Instead, a person could exercise the privileges of an airman certificate without an expiration date only if that person meets the appropriate recent experience requirements of part 61 specific to the operation or activity. Therefore, the FAA proposed to revise § 61.19(d) by creating two paragraphs under § 61.19(d). As proposed, § 61.19(d)(1) would remove the expiration date for flight instructor certificates issued on or after the final rule's effective date. Section 61.19(d)(2) would retain the current requirement and state that flight instructor certificates issued before the final rule's effective date would expire 24 calendar months from the month in which they were issued, renewed, or reinstated, as appropriate. Additionally, the FAA proposed to revise § 61.19(a)(2) to reflect that all certificates, not only pilot certificates, except those issued with an expiration date, are considered valid unless surrendered, suspended, or revoked. The FAA further proposed to revise § 61.19(d) to remove the reference to § 61.197(b) since the exception no longer applied due to amendments to § 61.197(b). While the FAA received many comments on these amendments, the FAA adopts the amendments as proposed. The subsequent discussion responds to comments received.

Many commenters supported the proposed removal of the expiration date from flight instructor certificates, citing consistency with other airman certificates, which do not have an expiration date. Supporters agreed that not printing and mailing new certificates every 24 calendar months would result in a cost savings to the FAA. However, six commenters opposed the proposal because they believed removing the expiration date would not provide enough relief in these areas.

One commenter supported the removal of the expiration date, provided that flight instructors are required to maintain instructional proficiency. The

[5] 88 FR at 32992.

[6] 88 FR at 32983.

[7] comment from William Edwards, Docket No. FAA–2023–0825–0132.

[8] The Experimental Aircraft Association's AirVenture Oshkosh Air Show was held from July 24 through July 30, 2023.

[9] Removal of Expiration Date on a Flight Instructor Certificate; Additional Qualification Requirements to Train Initial Flight Instructor Applicants; and Other Provisions Extension of Comment Period, 88 FR 74908 (Nov. 1, 2023).

[10] *www.federalregister.gov/documents/2011/01/21/2011-1385/improving-regulation-and-regulatory-review.*

[11] Three of the additional comments received were duplicates. Therefore, the total number of unique comments received was 166.

FAA acknowledges this requirement remains and notes that the proposed requirement to meet flight instructor recent experience in accordance with § 61.197 ensures instructional proficiency.

Three commenters contended that the only cost savings from removing the expiration date from flight instructor certificates is to the FAA in the production and mailing of new certificates.

As explained in Section III.A.1. of the NPRM preamble, the FAA's intent is to address industry requests to align the flight instructor certificate with other pilot certificates by removing the expiration date from the certificate. This final rule achieves this goal in addition to reducing the FAA's administrative burden and industry expense to reinstate flight instructor privileges. The economic impact analysis in section V.A. further details the cost savings to the FAA and industry.

Comments Concerning the Impact of the Expiration Date Removal on Flight Instructors

Five commenters opined that the expiration date removal does not reduce the administrative burden to instructors, who must still meet recent experience requirements that are akin to the previous renewal requirements. The FAA maintains that the previous flight instructor renewal requirements are retained as recent experience options to ensure the quality of flight training remains unaffected by the removal of the expiration date on the flight instructor certificate. The recent experience options provide instructors flexibility to select from several options to maintain recent experience according to their individual needs and circumstances. Further consideration of comments specific to the proposed recent experience requirements is discussed separately.

Three commenters noted that a failure to comply with recent experience requirements would require a flight instructor to reinstate their flight instructor privileges before providing flight instruction again, resulting in no practical change from a certificate with an expiration date.

The FAA acknowledges that flight instructors may not provide flight instruction if their recent experience has lapsed and must reinstate their flight instructor privileges before exercising those privileges. To mitigate the impact of these requirements, the FAA proposed an additional option that allows a flight instructor to reinstate their privileges by completing an FIRC within the first three calendar months following a lapse of recent experience, as opposed to completing a practical test. Further consideration of comments specific to the proposed reinstatement requirements is discussed separately.

Commenters also provided mixed assessments on the effect of removing the expiration date, with some supporting the proposal for its potential to encourage flight instructors to remain active or encourage new flight instructors to pursue certification due to the decreased burden. Others expressed concerns that it might drive longtime instructors to quit due to the challenges of meeting new recent experience requirements or adapting to changes introduced in this rulemaking. One other opposing commenter believed the recent experience requirements would present new burdens to maintaining privileges.

The FAA reiterates that all existing renewal options will remain available as recent experience options. Flight instructors may complete a recent experience option of their choice and then submit an Airman Certificate and/or Rating Application (FAA Form 8710–1 or 8710–11, as applicable) to validate and record their recent experience.

Comments Concerning Comparison to Other Professional Certification

Several commenters opposed the removal of the expiration date on a flight instructor's certificate, noting that expiration dates are common in other professional licenses and certifications and do not typically constitute a burden. Some commenters misunderstood the proposal, erroneously believing it would relax standards for flight instructors.

In response, the FAA acknowledges that while some flight instructors do not perceive the expiration date as burdensome, the decision to remove the expiration date came as a result of requests from several industry pilot organizations, including AOPA. The FAA reiterates that the removal of the expiration date does not relax the standards for flight instructors who must continue to complete recent experience requirements in lieu of the former renewal requirements, ensuring that only proficient flight instructors are qualified to provide flight instruction.

Comments Concerning the Verification of Flight Instructor Privileges

Numerous commenters made recommendations or highlighted concerns regarding the proposal's impact on the ability to verify a flight instructor certificate and recent experience validity. Four commenters, including AOPA and the National Association of Flight Instructors (NAFI), supported the proposal but recommended that the FAA should provide access to a public database to verify a flight instructor certificate and the instructor's recent experience. Another supporting commenter recommended that the FAA should notify instructors prior to the end of their recent experience period. The Soaring Safety Foundation (SSF) requested information on what flight instructor data the FAA will make public to identify flight instructors who could use their FIRC to renew their certificate.[12] They expressed concern that without an expiration date, FIRC providers will not be able to contact and remind instructors that their instructor privileges are about to expire.

Several opposing commenters expressed similar concerns. Eleven commenters, including two national FIRC providers, expressed concern that removing the expiration date could lead to instructors forgetting when their recent experience period ends. Six other commenters were concerned that without an expiration date on the flight instructor certificate, it would be more difficult for clients, flight schools, and the flight instructor themselves to determine if a flight instructor's privileges are valid.

The FAA notes that a flight instructor can verify the status of their flight instructor certificate online at the FAA's online Airmen Certificate Information website or by contacting the FAA Airman Certification Branch. This publicly available database will continue to serve as a resource for flight instructors to confirm when their current recent experience will end, and it will allow the public to verify the status of a flight instructor's credentials.

Four commenters expressed concern that a flight instructor may inadvertently provide instruction after their privileges lapse if they lose track of the end date of their current recent experience. These commenters believe that this could result in potential liability or financial consequences to both the instructor and their students if invalid instruction is provided or received, respectively.

[12] The SSF referred specifically to the FAA's Pilot Records Database (PRD) and sought information on how updates to the PRD will accommodate FIRC providers in continuing to notify flight instructors about relevant FIRCs. It is important to note that the PRD is managed by the FAA and is accessible only to Part 119 certificate holders and fractional ownerships, not the general public. For publicly accessible information on airman certificates, including pertinent flight instructor certificate expiration dates, one can refer to the FAA's Airmen Certification website at *www.faa.gov/licenses_certificates/airmen_certification.*

The FAA notes that the removal of the expiration date from flight instructor certificates does not increase the risk of this scenario. Even with an expiration date on the certificate, a flight instructor could inadvertently provide flight instruction after this date. The FAA considers flight instructors professionals capable of tracking and timely completing their recent experience requirements. An instructor's credentials can be verified using the publicly available Airmen Certificate Information website.

Comments Concerning the Effect on Flight Instructor Privileges

The Air Line Pilots Association, International (ALPA) supported the proposal yet expressed concerns that some flight instructors might not comprehend the ongoing requirement to maintain recent experience or face the need for reinstatement. Additionally, several commenters seemed to misinterpret the removal of the expiration date from flight instructor certificates as implying that flight instructors would no longer need to maintain proficiency or might not receive updated information. Other commenters seemed to believe the proposal would change the requirements to maintain flight instructor privileges and currency. One commenter seemed to believe the rule would automatically reinstate expired flight instructor certificates.

The FAA clarifies that the removal of the expiration date from flight instructor certificates does not alter flight instructor eligibility, aeronautical knowledge, or flight proficiency requirements. Initial flight instructor applicants will continue to be evaluated to the same standard as before the removal of the expiration date on the flight instructor certificate. As previously discussed, renewal requirements are retained as recent experience requirements to ensure flight instructors continue to maintain instructional knowledge and experience. The new requirements provide one additional option to meet recent experience, but no other new requirements to maintain flight instructor privileges were introduced as part of this rule. Finally, the FAA notes that the final rule will not automatically reinstate an expired flight instructor certificate. A flight instructor with an expired flight instructor certificate must meet one of the reinstatement requirements specified in § 61.199 to reinstate their privileges.

B. Changing the Flight Instructor Certificate Renewal Requirements to Flight Instructor Recent Experience Requirements (§ 61.197)

This final rule retains the current methods for flight instructor certificate renewal, as specified in § 61.197(a), but refers to them as flight instructor recent experience requirements. Instead of renewing their flight instructor certificate every 24 calendar months, a flight instructor will now need to establish recent experience at least once every 24 calendar months. This change ensures the quality of flight training is not adversely affected by retaining the existing standard despite the removal of the expiration date from the flight instructor certificate. This change also aligns the flight instructor certificate with the other airman certificates in part 61 that are based on recent experience. The FAA notes these changes do not impose new requirements on flight instructors, as they may continue to select from one of the five existing methods to satisfy the recent experience requirements. Additionally, the final rule adds another option to satisfy recent experience, which is further explained in the FAA-sponsored pilot proficiency program discussion of this preamble.

Section 61.197 will continue to require flight instructors to submit an Airman Certificate and/or Rating Application along with associated documentation to the FAA upon completing the recent experience requirements. The submission of FAA Form 8710–1 or 8710–11, as applicable, remains the only acceptable method for a flight instructor to submit their data to the FAA to identify, validate, and track the flight instructor's recent experience.

Retaining this process allows the FAA to continue tracking and recording the status of flight instructor certificates by capturing the events in which an applicant satisfies the recent experience requirements of § 61.197 as revised in this final rule. While the flight instructor will not be applying to renew a certificate, using FAA Forms 8710–1 and 8710–11 to collect data is necessary to maintain an accurate record of flight instructors who are eligible to exercise their privileges. This process also supports the FAA's ability to provide necessary data to governmental offices and industry upon request.

Seventy-two commenters responded to the proposed recent experience requirements, of which thirteen supported and twenty-nine opposed the proposal. Thirty commenters made suggestions or comments without clearly supporting or opposing this proposal.

Comments Concerning Extension of the Recent Experience Period

Four commenters recommended extending the 24-calendar month recent experience period for establishing recent experience to reduce the frequency with which flight instructors must meet these requirements. Comments ranged from extending it to 36–48 calendar months, with one comment recommending up to 5 years, and another suggesting that flight instructors who have held a flight instructor certificate for over 10 years should be exempt from recent experience requirements. A fifth commenter simply opposed the 24-calendar month recent experience period because that person believes it is an undue burden.

However, the FAA finds the 24-calendar month period appropriate, as the knowledge and skills pertinent to flight instruction can diminish over time. This duration ensures the time between recent experience events is suitable for a flight instructor to best retain these instructional abilities. Additionally, the FAA notes that the duration of the 24-calendar month period is consistent with other common pilot recent experience periods, including the § 61.56 flight review. The FAA declines to adopt the recommendations to extend the recent experience period and will retain the 24-calendar month period to ensure flight instructors remain proficient.

Comments Concerning Differences Between Flight Instructor Recent Experience and Pilot Recent Experience

Three commenters opposed the proposed changes because they believed the requirements do not align flight instructor requirements with those for other pilot certificates, particularly noting that the requirement to reinstate flight instructor privileges, if recent experience requirements are not met, is unique to flight instructor certificates. Because the consequences remain the same as the previous renewal requirements, these commenters contended that the proposed recent experience requirements provide no practical relief.

The FAA notes that a flight instructor certificate is different than a pilot certificate, and both certificates afford different privileges. The flight instructor certificate pertains to instructional ability rather than pilot skill. The instructional role of flight instructors requires specific, stringent measures to ensure safety and the quality of training

provided. This is analyzed in greater detail in the discussion addressing comments regarding reinstatement requirements.

Three commenters recommended that both teaching and flying skills should be assessed as part of meeting recent experience requirements. Two of these commenters recommended that flight instructors undergo an evaluation similar to the flight review required by § 61.56 and receive an endorsement from the instructor who conducted the evaluation. One commenter asserted that this review should be limited to instructors who did not provide any flight instruction in the preceding 24 calendar months.

As noted earlier, the flight instructor certificate pertains to instructional ability rather than pilot skill. Furthermore, requiring all instructors to complete a ground and/or flight evaluation conducted by another flight instructor to meet recent experience would pose an unnecessary burden to instructors. The existing flight review requirement in § 61.56 ensures that a flight instructor must maintain necessary piloting skills to act as pilot in command during flight instruction.

Comments Concerning Determination of the Recent Experience Period

The SSF requested clarification on the use of the term ''month'' within the proposed § 61.197(a)(1) through (3), which defines the start of the 24-calendar month recent experience period. The FAA notes that ''month'' is intended to identify a specific calendar month as referenced in § 61.197(a), ensuring consistency with the method previously used in § 61.197(b) for determining the flight instructor's expiration month.

One commenter recommended that all recent experience activities should be accomplished within the three calendar months preceding the documenting of that recent experience in accordance with § 61.197(b). The FAA finds that this recommendation would be unsuitable for forms of recent experience under § 61.197, other than completion of a FIRC. For instance, the § 61.197(b)(2)(i) recent experience option of recommending five applicants for a practical test with an 80 percent pass rate on the applicants' first attempt considers all instructional activity in the preceding 24 calendar months to determine that instructor's pass rate. If this was limited to the three calendar months preceding the recent experience validation (*i.e.,* submission of FAA Form 8710–1 or 8710–11 to a certifying official), it is likely very few instructors would qualify for this option. Furthermore, the FAA notes that even an FIRC may be started and taken over more than three calendar months as long as the flight instructor begins the course within their current recent experience period. Although § 61.197(b)(2)(iii) requires that the FIRC must be completed within the preceding three calendar months of recent experience validation, a flight instructor is not precluded from taking the course gradually over a prolonged period throughout their current 24-calendar month recent experience period.

One commenter recommended that the FAA develop a system to automatically notify a flight instructor that they are nearing the end of their 24-calendar month recent experience period, such as by sending an email. Recognizing the utility of such notifications, the FAA will make the end date of a flight instructor's recent experience period publicly available through the FAA's online ''Airmen Inquiry Search Page'' and by contacting the FAA Airman Certification Branch directly. This is similar to the information previously provided regarding flight instructor certificate expiration dates. The FAA will continue to use this method.

Additionally, the FAA notes that it does not currently have a system capable of all necessary functions to identify flight instructor certificate expiration dates or recent experience end dates and then send an email reminder or other appropriate notification to that airman. However, the FAA is considering developing an automated email notification system for flight instructors, like the commenter recommended, and will provide further information in the future.

Comments Concerning Recent Experience by Recommending Applicants for Practical Tests (§ 61.197(b)(2)(i))

One commenter opposed the § 61.197(b)(2)(i) recent experience option of recommending at least five applicants for a practical test within the preceding 24 calendar months, with at least 80 percent of those applicants passing the test on their first attempt. This commenter stated that experience does not guarantee competency and believed many flight instructors produce poor pilot applicants.

The FAA recognizes that while experience alone does not guarantee competency, the requirement to recommend a minimum of five applicants for a practical test with 80 percent passing on their first attempt is intended to provide a verifiable measurement of a flight instructor's performance. Under this requirement, flight instructors must have demonstrated success as evidenced by the applicants' pass rate on their first attempt. This provides additional assurance of the flight instructor's competency through the objective evaluation of the applicants by the FAA or designated examiner. Therefore, the FAA retains this recent experience option.

National FIRC provider Aviation Seminars asked several questions regarding recent experience based on instructional activity, in accordance with § 61.197(b)(2)(i). Specifically, they asked if this recent experience option would recognize instructors who conduct § 61.56 flight reviews or the instrument proficiency checks of § 61.57(d). They also asked how flight instructors maintaining recent experience using this option would remain up to date on new information. They additionally asked how a flight instructor's activity and pass rate are verified during recent experience validation. Finally, they asked if the FAA's Integrated Airman Certification and Rating Application (IACRA) system would automatically prevent a flight instructor who does not meet recent experience requirements from signing other pilots' FAA Form 8710–1 or 8710–11, as applicable, as a recommending instructor.

The FAA notes that flight reviews and instrument proficiency checks do not satisfy the recent experience option of § 61.197(b)(2)(i) because they do not provide the demonstrated record of success necessary to validate competency under this specific provision. This recent experience requirement measures a flight instructor's competency based on the number of practical test endorsements the recommending instructor has given during the preceding 24 calendar months and the resulting first-time pass rate. The FAA finds that when an instructor validates their recent experience using § 61.197(b)(2)(i), they would provide the certifying official the records that the flight instructor is required by § 61.189 to maintain. Additionally, FAA records track and record the flight instructor's recommendations and pass rate through data submitted on the applicable Airman Certificate and/or Rating Application, FAA Form 8710–1 or 8710–11.

Regarding the functionality of IACRA, if a flight instructor does not reestablish recent experience prior to the end of their recent experience period, IACRA will prevent their ability to process applications as the recommending

instructor. However, a brief administrative period is allowed post-recent experience period to account for any possible delays in processing documentation to establish recent experience. This is identical to the IACRA system functionality previously used when a flight instructor's certificate expired.

Eighteen commenters, including national FIRC provider Gleim Publications, recommended expanding the types of instructional activities that qualify under the § 61.197(b)(2)(i) recent experience option. They proposed recognizing activities that do not necessarily result in an endorsement for a practical test. One commenter expressed concern that not recognizing this type of instructional activity could lead to a loss of experienced instructors who do not meet the requirements for this recent experience option.

The FAA acknowledges that many important instructional activities do not result in an endorsement for a practical test; however, these activities do not result in a demonstrated record of success to validate the flight instructor's competency. As a result, the FAA cannot adopt this recommendation.

Additionally, it is important for flight instructors to understand that the recent experience option based on instructional activity is just one of several options available. If an instructor does not meet the criteria to establish recent experience through their instructional activity, they may establish recent experience through one of five other options in § 61.197(b). Therefore, the FAA declines to expand this recent experience option to include activities that do not lead to a practical test endorsement.

Two commenters, including LeTourneau University, recommended changing the criteria to meet recent experience through instructional activity to provide additional tolerance for simple applicant errors and instructors whose performance has improved over time. One commenter recommended allowing the 80 percent pass rate criterion to be met if the applicants pass on their second attempt to prevent simple applicant errors from negatively impacting the instructor. Another commenter recommended evaluating the first-time pass rate based either on the performance of the five most recent applicants or all applicants in the preceding 24 calendar months the flight instructor recommended, whichever produces a more favorable pass rate. The commenter believed this would recognize instructors who improved their performance over the 24-month period.

The FAA acknowledges that simple errors can occur during a practical test which is not a direct consequence of the instructor's preparation of that applicant. However, the FAA notes that a failure on a practical test may be an indication of a flight instructor's insufficient preparation or ineffective instruction of the applicant. If 80 percent of a flight instructor's applicants needed only to pass a practical test on their second attempt, this would not ensure an acceptable level of instructional competency to meet recent experience requirements. Similarly, considering only the most favorable data over a 24-month period could obscure ongoing deficiencies in the instructor's competency. Therefore, the FAA finds it necessary to consider the instructor's performance over the preceding 24-calendar months to ensure that significant deficiencies are not overlooked. The FAA has also included a minor change in § 61.197(b)(2)(i) to clarifying that the 80 percent pass rate criterion applies to all applicants that the flight instructor endorsed for a practical test in the preceding 24 calendar months. As a result, the FAA will not adopt these recommendations.

One commenter, a chief flight instructor at a part 141 pilot school with examining authority, inquired whether flight instructors who instruct in an approved part 141 training course for which that pilot school holds examining authority would be allowed to count applicants who complete an end of course test towards meeting the § 61.197(b)(2)(i) instructional activity-based recent experience option.

An end-of-course test administered under part 141 by a school with examining authority is considered equivalent to a practical test for the purposes of meeting the § 61.197(b)(2)(i) recent experience requirement.[13] Therefore, flight instructors who provide end-of-course training are engaged in activities that meet the criteria for recent experience, provided the instructor must personally provide an endorsement for the end-of-course test for each applicant. The instructor's records, maintained in accordance with § 61.189(b)(2), must document that the instructor met all criteria of § 61.197(b)(2)(i). The FAA suggests that the instructor also sign the applicant's Airman Certificate and/or Rating Application as the recommending instructor for each applicant the instructor recommends for an end-of-course test. The instructor's endorsement and recommendation would be additional to the separately required air agency recommendation on the application.

Two commenters expressed concern that the recent experience options of § 61.197(b)(2)(i), based on instructional activity, or § 61.197(b)(2)(ii), by serving in a position involving the regular evaluation of pilots, may not adequately ensure that flight instructors stay informed about the latest developments in teaching techniques necessary to remain proficient as a flight instructor.

The FAA notes that both options existed under previous renewal requirements and have a longstanding precedent of being an acceptable means to retain flight instructor privileges. As discussed, the instructional activity under the criteria of § 61.197(b)(2)(i) requires a demonstrated record of success that attests to the flight instructor's instructional competency. To achieve this high level of demonstrated success, an instructor would need to keep up to date on recent developments and techniques. After satisfactorily completing a recent experience requirement, a flight instructor must submit documentation of such in a form and manner acceptable to the Administrator, in accordance with § 61.197(b)(2). FAA policy expresses the form and manner that is acceptable to the Administrator. This policy ensures that a flight instructor has knowledge of current pilot training standards and FAA certification standards by requiring supporting documentation appropriate to the position. This policy is expressed in Advisory Circular (AC) 61–65 and FAA guidance directing the activities of aviation safety inspectors (ASI).[14] By ensuring a flight instructor has knowledge of current pilot training standards and FAA certification standards, the FAA verifies they have remained up to date on recent developments in pilot certification. As a result, the FAA finds that these two recent experience options provide an

[13] Legal Interpretation to Crowe-Palm Beach Helicopters (August 28, 2015). *drs.faa.gov/browse/excelExternalWindow/FAA000000000LEGALINTPR2015017PDF.0001.*

[14] Currently, FAA Order 8900.1, Vol 5, Ch 2, Sec 11, paragraph 5–504B1, list the documentation that an applicant should provide to the certifying official to renew their flight instructor certificate under § 61.197(a)(2)(ii). This includes a company manual and a letter with a company letterhead from management office. The employment documentation should clearly show that the applicant is in a position involving the regular evaluation of pilots; the applicant has satisfactory knowledge of current FAA pilot training policies and standards; and the applicant has satisfactory knowledge of the FAA certification processes. Paragraph 5–504B1 concludes with examples of positions in which applicants may qualify for flight instructor certificate renewal under § 61.197(a)(2)(ii).

equivalent level of safety and instructional skill compared to other recent experience options.

Comments Concerning Recent Experience by Serving in a Position Involving the Regular Evaluation of Pilots (§ 61.197(b)(2)(ii))

Several commenters, including NAFI, recommended that the FAA recognize additional positions qualifying for the § 61.197(b)(2)(ii) recent experience option. The positions recommended include designated pilot examiners (DPEs); part 142 training center instructors; qualification as a part 121, 125 or 135 pilot in command; positions within a training organization under part 121, 125, 129, 135, 141, or 142; or any flight instructor determined to be qualified by an FAA aviation safety inspector.

The phrase ''in a position involving the regular evaluation of pilots'' as specified in § 61.197(b)(2)(ii) and FAA policy,[15] is intended to cover a variety of activities that directly involve the evaluation of pilot performance and not the routine instructional duties typically associated with a flight instructor. A flight instructor eligible under the § 61.197(b)(2)(ii) recent experience option should be employed in a position for the primary purpose of conducting evaluations of other pilots, such as company check pilots or instructors in part 121 or 135 operations.

The FAA further notes that several positions recommended by commenters are already recognized for establishing flight instructor recent experience, such as designated pilot examiner or a pilot in command of a multiple-pilot flightcrew under part 121, 125 or 135. These positions are identified in Advisory Circular 61–65, as amended, and the FAA intends to continue to accept these positions under the new requirements. Additionally, other positions involving the regular evaluation of pilots, such as chief flight instructors, may also utilize this recent experience option. Furthermore, the FAA requires that the instructor provides documentation to support their engagement in such roles, to verify they possess satisfactory knowledge of current FAA pilot training policies and standards and satisfactory knowledge of the FAA certification processes.[16] Thus, the FAA has decided not to amend § 61.197(b)(2)(ii) in response to these recommendations.

One commenter recommended that the FAA include in the regulations the specific positions recognized as involving the regular evaluation of pilots, as per § 61.197(b)(2)(ii). The commenter also recommended that the FAA not require documentation validating a flight instructor's eligibility to establish recent experience on this basis.

In response, the FAA finds that specifying a list of eligible positions under § 61.197(b)(2)(ii) could restrict the flexibility needed to accommodate various and potentially new roles that involve regular pilot evaluation. This approach avoids the need for additional rulemaking to expand or modify the list as new roles emerge. Regardless, documentation of a flight instructor's position and their knowledge of FAA training and certification policies and processes remains essential to ensure the instructor is qualified and prepared to provide effective flight instruction.

One commenter recommended that the FAA establish and require a minimum amount of time that a flight instructor must hold a position involving the regular evaluation of pilots to establish recent experience based on holding that position in accordance with § 61.197(b)(2)(ii).

The positions that are accepted per § 61.197(b)(ii) are higher level roles with the primary purpose of evaluating other pilots, such as check pilots, chief flight instructors, flight instructors in a part 121 or part 135 operation, and designated pilot examiners. Additionally, the FAA finds the requirement to hold the position within the preceding 24 calendar months is consistent with the other recent experience options. For these reasons, the FAA will not adopt this recommendation.

Comments Concerning Recent Experience by Successfully Completing a FIRC (§ 61.197(b)(2)(iii))

AOPA requested clarification regarding the meaning of ''within the preceding three calendar months'' for satisfying recent experience requirements by completion of a FIRC in accordance with § 61.197(b)(2)(iii). AOPA expressed concern that the FAA intends instructors to complete a FIRC every three calendar months to maintain recent experience.

A flight instructor is required to complete a FIRC once within their 24-calendar month recent experience period, receive a graduation certificate within the three calendar months, and document this recent experience by submitting FAA Form 8710–1 or 8710–11, as appropriate, to a certifying official.

National FIRC provider Gleim Publications recommended maintaining the FIRC as a valid option for recent experience due to the value of training it provides in keeping instructors knowledgeable.

The FAA has long supported the completion of an approved FIRC as an option to meet the former renewal requirements and will continue to do so as a recent experience option under the new § 61.197(b)(2)(iii).

Two commenters expressed concern for the continued acceptance of completion of a FIRC to satisfy recent experience requirements. One commenter stated that FIRCs often test rote knowledge and trivia, rather than promoting or evaluating higher-order learning. This commenter also stated that the information provided in FIRCs is often outdated and doesn't address important issues or types of instruction beyond primary flight training. Furthermore, this commenter noted that a flight instructor who doesn't provide dual instruction or log any pilot-in-command time during a 24-month period can still renew a flight instructor certificate solely by completing a FIRC, a situation they believe contradicts the emphasis on currency as proposed in the NPRM to this final rule. The other commenter believed that a flight review is a more rigorous way to assess an instructor's presentation and airmanship skills and suggested that practical instructional and flying skills should be prioritized over logging hours in front of a computer screen.

The FAA finds that FIRCs keep flight instructors informed of the changing world of flight training and enhance aviation safety through continued up-to-date refresher training of the flight instructor cadre. Additionally, the recurrent training provided by a FIRC is essential because many attendees may not otherwise be aware of recent changes affecting pilot training. For these reasons, the FAA considers completion of an approved FIRC a valuable option to maintain flight instructor recent experience.

However, the FAA acknowledges the need to find a balance in response to comments received. While some commenters have suggested making FIRCs more demanding, others have proposed reducing the total hours required or restructuring the FIRC program. In considering these differing comments, the FAA notes it retains the ability to modify training course outline (TCO) guidance to achieve the appropriate training outcome. This approach allows for balancing the FIRC content to ensure it effectively meets the training needs of flight instructors.

Eight commenters, including SAFE and NAFI, recommended adopting a

[15] Ibid.

[16] Ibid.

continuing education model for FIRCs. These commenters suggested this model would allow an instructor to complete refresher modules on an ongoing basis, rather than within the typically brief period in which a FIRC is completed. Several commenters also supported this belief that a continuing education model would allow the course to provide more relevant information.

The FAA notes that flight instructors can start an internet-based FIRC at any time during their recent experience period and progress through the course modules at their own pace, as long as they complete and receive the FIRC graduation certificate before they submit their recent experience documentation to a certifying official prior to the end of their recent experience period. It is important to note that although providers that present conventional in-person FIRCs typically conduct their courses in two days, internet-based FIRCs allow their attendees to complete course modules at their own pace. While all FIRCs allow instructors to complete their FIRC at any time during their current recent experience period, some online FIRCs may allow ongoing training throughout the attendee's current recent experience period. However, the following requirements still apply in all cases: (1) The attendee must complete the FIRC within the three calendar months preceding submitting their documentation. (2) To retain their current recent experience end date, the flight instructor attendee must complete the FIRC and submit their documentation within three calendar months preceding the last month of their current recent experience period. Flight instructors seeking to begin a FIRC to receive ongoing training during their recent experience period should contact the provider before enrollment to ensure that the provider's FIRC meets the instructor's individual training plan.

Furthermore, FIRCs currently provide regularly updated training using the most relevant information. For instance, the FAA expects FIRC providers to quickly update their presentation materials to reflect relevant changes in FAA regulations, policies, and safety-related publications, such as FAA Acs and handbooks, to stay completely up to date at all times. Moreover, a FIRC provider may update their course as needed provided they include all course content that the Administrator has determined necessary. AC 61–83, Nationally Scheduled, FAA-Approved, Industry-Conducted Flight Instructor Refresher Course, provides advisory guidance and recommendations for the preparation and approval of TCOs for FAA-approved, industry-conducted FIRCs, Furthermore, AC 61–83, paragraph 14.1, explains that the FAA approves all proposed substantive changes to the TCO before the provider presents them in a FIRC. These processes ensure that FIRCs provide timely content and more relevant training to course attendees. For these reasons, the FAA finds it unnecessary to restructure the FIRC program by adopting a continuing education model as recommended by these eight commenters.

One commenter suggested that the overall FIRC hour requirement should be reduced to 8 hours, in addition to adopting a continuing education model.

The FAA believes that reducing the minimum hours required for a FIRC presentation from 16 to 8 hours would not allow for the effective delivery of all required training content and attendees would receive less information during the course. As previously noted, two other commenters suggested even more rigorous standards for approved FIRCs. The FAA finds that the current policy requiring no fewer than 16 hours of ground and/or flight instruction maintains a sufficient standard for a flight instructor to remain updated and establish recent experience.

One commenter suggested that the completion of a FIRC at any time within a flight instructor's 24-calendar month recent experience period should retain the same end month of the instructor's current recent experience period and extend the recent experience period for an additional 24 calendar months.

This recommendation, if applied, could effectively result in nearly 48-months of continued recent experience before the flight instructor is required to reestablish recent experience again. However, the recent experience requirements are intended to ensure a flight instructor retains instructional knowledge and proficiency, which degrades over time. As a result, the FAA finds it necessary to limit the provision of § 61.197(a)(3) to ensure a flight instructor establishes recent experience without an excessively long interval between recent experience events.

Two commenters recommended that the FAA develop and directly administer FIRC rather than rely on approved FIRC providers to offer these courses.

The FAA considers a FIRC provider as a professional educator with skill in training the trainers. Although the FAA's responsibility for the presentation of FIRCs was transferred to certain qualified industry organizations, the FAA maintains oversight of the FIRC program to include specifying the course content and structural guidelines as provided in AC 61–83. Before a FIRC can serve as a basis for flight instructor recent experience, the FAA must approve the TCO and issue a letter of authorization. This process allows the FAA to ensure FIRC providers offer courses which meet FIRC TCO development, training, and testing standards. Notably, the FAA finds that the history of flight instructor renewals demonstrates that FAA-approved, industry-conducted FIRCs have been successful for more than four decades. Therefore, the FAA declines to adopt this recommendation and will continue to authorize FIRC providers to offer these courses.

Comments Concerning Recent Experience by Passing a U.S. Armed Forces Military Instructor Pilot or Pilot Examiner Proficiency Check (§ 61.197(b)(2)(iv))

Two commenters, including AOPA, recommended that the FAA amend the proposed § 61.197(a)(2)(iv), which allows a flight instructor to meet recent experience based on completion of a U.S. Armed Forces military instructor pilot or pilot examiner proficiency check, to include civilian contractor pilots engaged in military instruction.

The FAA clarifies that the term ''military instructor,'' as used in § 61.197(a)(2)(iv), encompasses both military and civilian flight instructors who provide flight training within the U.S. Armed Forces. If a civilian who acts as a military flight instructor (*e.g.,* as a contractor) for the U.S. Armed Forces receives a military instructor pilot or pilot examiner proficiency check, they are indeed eligible to exercise this recent experience option. Flight instructors must present an official military record documenting that they passed such proficiency checks within the preceding 24 calendar months to be eligible for this recent experience option.

Comments Recommending Additional Recent Experience Options

Four commenters, including NAFI and SAFE, recommended that accreditation as a master flight instructor by NAFI or through SAFE's Master Instructor Continuing Education Program should count to establish recent experience under the final rule.

The FAA notes that regulations cannot show preference toward any specific industry group or organization by codifying their name or program into regulations. Nevertheless, any industry group or organization wishing such approval may submit a request to the FAA for consideration of its program as

a qualifying means to satisfy members' flight instructor recent experience. The FAA would then review the request and documentation to ensure that their program meets the applicable requirement of § 61.197 and, if so, subsequently continues to meet authorization requirements during each reauthorization cycle.

However, master instructors accredited by these organizations may still qualify to establish recent experience under existing options, such as § 61.197(b)(2)(i) by recommending at least five applicants for a practical test for a certificate or rating with at least 80 percent passing on their first attempt. Alternatively, if they hold a higher-level position with the primary purpose of evaluating pilots, such as a designated pilot examiner or a check pilot under part 121 or 135, they may qualify under § 61.197(b)(2)(ii).

Several commenters recommended additional methods of recent experience. Two commenters suggested allowing the flight instructor enhanced qualification training program (FIEQTP) to satisfy recent experience requirements for flight instructors.

The FAA notes that although the FIEQTP is a comprehensive course designed to prepare a flight instructor to teach initial flight instructor applicants, its purpose is distinct from that of a FIRC. Unlike a FIRC, the FIEQTP does not expose flight instructors to the latest in-flight training techniques, the newest technologies, the latest operational safety procedures, or the latest regulatory and policy changes. By preparing flight instructors to teach initial flight instructor applicants, the FIEQTP serves a different purpose than the proposed recent experience options. Therefore, the FAA does not consider the FIEQTP appropriate for satisfying the recent experience requirements and, therefore, declines to adopt this recommendation.

One commenter suggested allowing the annual instructor currency training under part 142 to count toward the recent experience requirements.

Although a part 142 training center instructor must complete training every 12 calendar months in accordance with § 142.53, the specific training content required annually does not ensure the broad level of knowledge intended for recent experience. The FAA expects flight instructors to also have knowledge of part 61 pilot certification requirements and the associated Airman Certification Standards or Practical Test Standards. Thus, the FAA declines to adopt this recommendation.

One commenter recommended allowing aviation educators to develop a new ''teaching proficiency'' course that includes three hours of ground training and three hours of flight training to improve instructional abilities and qualify as recent experience.

The FAA welcomes industry initiatives that lead pilots to seek additional training and greater proficiency. However, this recommendation appears to overlap with the intent of approved FIRCs. Currently, FAA policy in AC 61–83, paragraph 10.10, allows for consideration of FIRCs with a flight component when coordinated with and approved by the FAA. The FAA will consider approval of FIRCs with a flight component on a case-by-case basis. As a result, the FAA will not adopt this recommendation.

One commenter recommended that a flight instructor who holds a current § 61.56 flight review and has endorsed another pilot for a certificate or rating, or conducted a § 61.56 flight review for another pilot, should be eligible to satisfy the recent experience requirement.

The FAA notes that a flight review refreshes pilot knowledge and skill, not instructional proficiency. Additionally, the recommendation to endorse only one pilot for a certificate or rating is significantly less than the five required to qualify for the proposed recent experience option based on instructional activity in § 61.197(b)(2)(i). Furthermore, conducting a flight review does not result in a demonstrated record of success validating the flight instructor's competency because it is not objectively evaluated by the FAA or an examiner. The FAA cannot adopt this recommendation since it does not ensure the flight instructor's proficiency nor produce a demonstrated record of success.

LeTourneau University recommended an option to establish recent experience for flight instructors who provide 100 hours of training within the preceding 12 months in training courses under part 61, 141, or 142. They believed this would recognize active flight instruction as a method of recent experience.

The FAA notes that the recent experience option of § 61.197(b)(2)(i) recognizes active flight instruction and requires a demonstrated record of success based on applicants recommended for practical tests and the resulting rate of applicants who pass on their first attempt. The suggested approach does not produce the same demonstrated success attesting to the instructor's competency. As a result, the FAA will not adopt the recommended amendment.

Comment Concerning Removal of Reference to Flight Instructor Certificate Expiration From § 61.51(h)(2)(ii)

In their comment, Western Michigan University identified an additional section in part 61 which would require amendment to accommodate the proposed removal of flight instructor certificate expiration dates. Currently, § 61.51(h)(2)(ii) requires that the training time a person receives must be logged in a logbook and must include ''. . . the authorized instructor's signature, certificate number, and certificate expiration date.'' The commenter requested amending this section to allow logbook training time descriptions endorsed by authorized flight instructors who hold a flight instructor certificate without an expiration date.

The FAA agrees with this commenter in that the identified section requires amendment to accommodate flight instructor certificates without expiration dates. As a result, § 61.51(h)(2)(ii) will be amended in two phases. In the first phase, the rule will be amended to require a logbook entry with a description of the training given that includes either the flight instructor's certificate expiration date or the flight instructor's recent experience end date, consistent with the requirements of § 61.197. The first phase will commence on the effective date of the final rule. In the second phase, 27 calendar months after the effective date of the final rule, § 61.51(h)(2)(ii) will be further amended to require a logbook entry with a description of the training given that includes only the flight instructor's recent experience end date with the authorized instructor's signature, and certificate number. This two-phased approach will ensure that flight instructors who hold a flight instructor certificate with an expiration date within the 27 calendar months after the effective date of the final rule will remain compliant with the requirements of § 61.51 until those flight instructors are required to meet the renewal requirements of this final rule. This 27-calendar month period after the effective date of the final rule will accommodate flight instructors who choose to renew their flight instructor certificate early, in accordance with current § 61.197(b)(2).[17] This approach

[18] Current section 61.197(b)(2) allows flight instructors to renew their flight instructor certificate within the three calendar month preceding the expiration month of the current flight instructor certificate. Flight instructors exercising this option would receive a new flight certificate within an expiration date 24 calendar months from their previous month of expiration.

ensures a smooth transition and maintains compliance throughout the amendment process.

Comments Concerning the Requirement To Validate Recent Experience by Submitting FAA Form 8710–1 or 8710–11 to the Administrator

Several commenters, including AOPA and SSF, requested clarification regarding how recent experience will be documented under the proposed rule. Other commenters misunderstood who would review supporting documentation and validate an application to establish recent experience.

The process for validating and establishing recent experience under § 61.197(b)(2) mirrors the procedural steps previously required to renew a flight instructor certificate. Flight instructors are required to submit an Airman Certificate and/or Rating Application (FAA Form 8710–1 or 8710–11, as applicable) to the FAA along with associated documentation that shows the flight instructor satisfactorily completed one of the recent experience requirements. These forms are submitted through the IACRA or via a printed paper application and must be reviewed and validated by a certifying official. Certifying officials may include an FAA ASI or an FAA designee, such as an appropriately authorized designated pilot examiner or airman certification representative (ACR). Once the application and any supporting documentation is reviewed and approved, that certifying official signs the application and submits it to the Airman Certification Branch for review, final approval, and record retention. Submission of FAA Forms 8710–1 or 8710–11, as applicable, remains the exclusive form and manner acceptable to the Administrator to submit flight instructor data to identify, validate, and track the flight instructor's recent experience period.

One commenter asked how instructors will document recent experience. Specifically, the commenter asked whether recent experience would be documented in the flight instructor's personal records such as their pilot logbook or retention of a FIRC graduation certificate.

The FAA maintains that the use of FAA Forms 8710–1 and 8710–11 is necessary. These forms allow the FAA to track flight instructors who are eligible to exercise the privileges of their flight instructor certificates and allow the FAA to validate that flight instructors meet the recent experience requirements. This information will be accessible online via the Airmen Certificate Information website, enabling verification of recent experience by flight instructors, their clients, and other interested parties.

Two commenters, LeTourneau University and SSF, requested clarification on who will sign the Form 8710 validating recent experience. SSF also asked if another flight instructor would be considered qualified to approve the form, similar to a flight instructor signing an application for a student pilot certificate.

The FAA reiterates that certifying officials, such as an FAA ASI, DPE, or ACR, will continue to review and sign Form 8710–1 or 8710–11 to validate a flight instructor's recent experience. The FAA finds these personnel are properly trained and authorized to review a flight instructor's recent experience and sign Form 8710–1 or 8710–11. Unlike the role of flight instructors in verifying student pilot certificate applications, which primarily involves confirming identity and basic eligibility, validating recent experience for flight instructors requires a greater responsibility and procedural knowledge than reviewing an application for a student pilot certificate.

AOPA asked if flight instructors who use the FAA WINGS pilot proficiency program to establish recent experience in accordance with § 61.197(b)(2)(v) will need to submit FAA Form 8710–1 or 8710–11, as applicable, or whether WINGS would automate the process. Additionally, they asked if flight instructors would have to validate recent experience by submitting Form 8710–1 or 8710–11 after every qualifying activity.

The FAA notes that the WINGS pilot proficiency program will not automatically submit recent experience documentation for participating instructors. Instructors must submit FAA Form 8710–1 or 8710–11 to a certifying official upon satisfactorily completing all § 61.197(b)(2)(v) requirements including conducting at least 15 activities recognized under the FAA-sponsored pilot proficiency program to at least 5 pilots.

Three commenters opposed the requirement to submit an 8710–1 or 8710–11 to document recent experience in accordance with § 61.197(b)(2) because they believed a Notice of Disapproval could be issued to flight instructors who submitted an application to validate recent experience. These commenters expressed concerns about the perceived consequences of a flight instructor providing training after the time of application and before receiving the Notice of Disapproval.

In the NPRM for this rule, the FAA stated that if a flight instructor does not sufficiently show a recent experience requirement has been met, or does not meet the recent experience requirements, the FAA would deny the applicant's application and issue a Letter of Disapproval. The FAA determined that the NPRM did not clearly describe the actions FAA would take if an instructor does not validate recent experience requirements. Additionally, the FAA notes that it inadvertently used the term Letter of Disapproval but intended to state Notice of Disapproval.

To clarify this process, if a flight instructor chooses to meet recent experience requirements by completing a practical test in accordance with § 61.197(b)(1) and the evaluator determines the instructor did not meet the required standards for required task(s) for that test, the evaluator would issue FAA Form 8060–5, Notice of Disapproval, to that flight instructor. The flight instructor would then have 60 days to successfully pass the remainder of the practical test in accordance with § 61.43(f).

Furthermore, a flight instructor documenting recent experience for any option under § 61.197(b)(2) not involving a practical test would not receive a Notice of Disapproval. Instead, if the flight instructor did not meet one of the eligibility requirements, the certifying official would inform the flight instructor of the reasons they are ineligible and return the application to the instructor. The flight instructor could resubmit documentation once they fully meet eligibility for their chosen recent experience option of § 61.197(b)(2). This notification would occur at the time the flight instructor first submitted the application to the certifying official.

Finally, if the flight instructor did not meet their eligibility to reestablish recent experience but is still within their previous 24 calendar month recent experience period, they could continue to provide instruction until the end of the recent experience period. After correcting the eligibility issue and establishing their new recent experience period, the instructor could continue providing instruction throughout the new period.

Twenty-one commenters opposed the requirement to document recent experience by submitting an 8710–1 or 8710–11 application. These commenters included national FIRC providers King Schools and AceCFI, and one designated pilot examiner. These commenters believed that this requirement did not relieve the

administrative burden to the instructor or the FAA as compared to the previous renewal requirements. Of these commenters, ten additionally opposed the requirement because they believed it is inconsistent with other forms of pilot recent experience. Six commenters recommended that recent experience should be documented solely in the flight instructor's logbook or by retaining their FIRC graduation certificate, as applicable, with no requirement to submit Form 8710–1 or 8710–11.

For the reasons previously stated, the FAA has determined that the requirement to submit Forms 8710–1 and 8710–11 must be retained. Requiring flight instructors to submit these forms allows for validation of recent experience and the data collected ensures the public can verify the instructor's privileges. Furthermore, many other sources, such as governmental offices and industry, frequently ask the FAA to provide this data.

One commenter recommended that FIRC providers interface directly with the FAA to transmit a flight instructor's graduation certificate, bypassing the requirement for that instructor to document recent experience by submitting an application.

The holder of a flight instructor certificate bears the responsibility to establish recent experience and submit documentation in accordance with § 61.197. To help reduce the burden of document submission to flight instructors, the FAA authorizes FIRCs to use an ACR to help process their recent experience documentation.[18] ACRs previously performed this function for the renewal of flight instructor certificates and will continue to perform a comparable role in documenting recent experience under the new requirements. The FAA declines to adopt this recommendation.

One commenter recommended that the FAA Forms 8710–1 and 8710–11 Aviation Safety Inspector or Technician Report blocks should be repurposed to allow the certifying official to document any recent experience activity type and the date the activity was completed.

The FAA notes that other recent experience options would not have a single date of completion comparable to a FIRC, nor would such a date have a meaningful use for other options. Since only the completion of a FIRC would necessitate data entered in the FIRC-specific blocks, the FAA finds it unnecessary to modify Forms 8710–1 and 8710–11 based on this recommendation.

C. Recent Experience Based on Instructional Activity in an FAA-Sponsored Pilot Proficiency Program (§ 61.197(b)(2)(v))

The NPRM proposed to codify the use of the FAA's WINGS-Pilot Proficiency Program as an approved program that flight instructors can use to satisfy flight instructor certificate renewal requirements under § 61.197(b)(2)(v). Historically, the WINGS Program is accepted as a certificate renewal method for flight instructors under FAA policy, as outlined in FAA Order 8900.1, Volume 5, Chapter 2, Section 11, due to its familiarity and emphasis on the current flight training standards and procedures.[19]

Rather than codifying the WINGS Program by name, the FAA will adopt language in § 61.197(b)(2)(v) that allows a flight instructor to satisfy recent experience by serving as a flight instructor in an FAA-sponsored pilot proficiency program, provided certain requirements are met. The phrase ''FAA-sponsored pilot proficiency program'' is intended to provide flexibility for the incorporation of comparable FAA-sponsored programs that may be developed in the future.

Ten commenters, including AOPA, the Experimental Aircraft Association (EAA), and SAFE, generally supported the proposed recent experience option. EAA stated that this change is long overdue. AOPA expressed support and suggested that a future pilot proficiency program or an extensive update to the WINGS program would improve the user experience and further benefit program participants.

As discussed in the NPRM, the FAA's intent is to formalize the use of an FAA-sponsored pilot proficiency program as a method to establish flight instructor recent experience. The FAA appreciates the AOPA's feedback on the WINGS user experience. There is currently an ongoing effort unrelated to this rulemaking to modernize the FAASTeam *FAASafety.gov* website thereby improving user experience.

In the NPRM, the FAA included a requirement for a flight instructor to provide at least 15 hours of flight training under the FAA-sponsored pilot proficiency program to at least five pilots. In response to comments, the FAA acknowledges an error in the initial proposal that mistakenly required ''15 hours'' of flight training instead of ''15 activities.'' The final rule will revise the proposed regulatory text in § 61.197(b)(2)(v)(C) from ''Has given at least 15 hours of flight training under the FAA-sponsored pilot proficiency program'' to ''Has conducted at least 15 flight activities recognized under the FAA-sponsored pilot proficiency program, during which the flight instructor evaluated at least five different pilots and has made the necessary endorsements in the logbooks of each pilot for each activity.''

Three commenters, including Gleim Publications, recommended reducing or eliminating the requirement to evaluate 15 flight activities for at least five pilots. They noted that a flight instructor may complete more than one level of the WINGS Program with the same pilot. Two commenters stated that some instructors may not have a broad enough client base to provide training to five different pilots but nevertheless provide the same amount of flight training to fewer individual pilots.

The FAA maintains that providing the specified flight training to at least five different pilots has long been an established part of FAA policy and is consistent with the recent experience option of proposed § 61.197(b)(2)(i), which is based on successful instructional activity. This requirement ensures a flight instructor provides flight training to various individuals under the WINGS Program. By training and evaluating at least five different pilots, the flight instructor encounters different instructional experiences. Although a flight instructor may provide more than one WINGS flight activity to the same pilot, that instructor would not be exercising or improving their ability to diversify their teaching techniques. For this reason, the FAA finds it necessary to retain the requirement as proposed.

Two commenters discussed the use of the term ''FAA-sponsored pilot proficiency program'' within proposed § 61.197(b)(2)(v). These commenters questioned whether the FAA would recognize a flight instructor's participation in an industry organization's pilot proficiency program as qualifying toward this recent experience option. One commenter recommended that the FAA add language to the proposed regulation to allow acceptance of industry pilot proficiency programs. Another commenter asked if the FAA intends to acknowledge industry programs as ''equivalent to the current WINGS

[18] The FAA requires documentation to be submitted in accordance with Section 61.197(b). The documentation must be submitted in a form and manner acceptable to the Administrator, which means Form 8710–1 or 8710–11. Therefore, any required documentation must be attached to either Form 8710–1 or 8710–11, as applicable.

[19] *drs.faa.gov/browse/excelExternalWindow/DRSDOCID1732426999202303092229 25.0001?modalOpened=true*.

system for purposes of establishing instructional currency.'' [20]

While industry-sponsored pilot proficiency programs are valuable resources to pilots and instructors, the FAA does not intend to accept a flight instructor's participation in an industry program as satisfying this recent experience option. The FAA's involvement is a critical component of the WINGS Program and would be equally critical in any program that may be recognized under § 61.197(b)(2)(v) in the future. Therefore, the FAA will not expand this recent experience option to Include industry programs at this time.

One commenter opposed this recent experience option because they believed it may not be a viable option for most instructors. The commenter stated that both the requirement to provide 15 hours of instruction and the requirement for the instructor to complete a phase of the WINGS Program may be difficult for a flight instructor not associated with a flight school or without access to an aircraft. Another commenter opposed the proposal, believing the WINGS Program is overly complicated and ineffective and that it should not serve as a basis for flight instructor recent experience.

The FAA finds that the WINGS Program structure and requirements are a valid means of renewing a flight instructor certificate. Through this final rule, the FAA codifies and retains a flight instructor's WINGS Program participation as a recent experience option. It is important to note that flight instructors are not obligated to participate in the WINGS Program under this amendment. All other previous renewal options are retained as recent experience options allowing flight instructors to maintain their privileges without WINGS Program participation if they so choose.

Furthermore, changes to the WINGS Program are beyond the scope or intent of this rulemaking. The FAA, along with many commenters, finds the WINGS Program a valuable recent experience options for participating instructors. Accordingly, the FAA will retain this proposed option.

D. Reinstatement of Flight Instructor Privileges by FIRC (§ 61.199)

Currently, § 61.199 prescribes the requirements for those who wish to reinstate their expired flight instructor certificates. These include (1) satisfactory completion of a flight instructor certification practical test as per § 61.183 for one of the ratings on the expired flight instructor certificate, or (2) satisfactory completion of a flight instructor certification practical test for an additional rating.[21] In addition, a military instructor pilot may reinstate an expired flight instructor certificate by meeting certain U.S. Armed Forces instructor pilot or pilot examiner qualifications.[22]

This final rule revises the requirements for reinstating flight instructor privileges due to the removal of the expiration date from a flight instructor certificate. As discussed in the NPRM, this change necessitates revising the reinstatement requirements set forth by § 61.199, removing expiration terminology and replacing it with recent experience terminology as adopted in § 61.197. This final rule retains all former reinstatement options, now relocated in § 61.199(a)(2) and (3), for flight instructors seeking to reinstate their privileges when they have not reestablished recent experience prior to the last month of their flight instructor recent experience period.

Additionally, this final rule adds a new reinstatement option in § 61.199(a)(1). This option creates a three-calendar-month reinstatement period immediately after lapse of the flight instructor's recent experience period during which flight instructors can reinstate their privileges by completing an FAA-approved FIRC as opposed to completing a practical test.

Flight instructors are not authorized to exercise the privileges of their flight instructor certificate when their recent experience has lapsed. For example, if an instructor's 24-calendar month period ended on June 30, 2026, the flight instructor's recent experience would lapse on July 1, 2026. The flight instructor would have until September 30, 2026, to complete an FAA-approved FIRC and submit an application for reinstatement. They are not permitted to exercise the privileges of the flight instructor certificate during this lapsed period. Successful completion of the FIRC and timely submission of the reinstatement application by September 30, 2026, will result in the reinstatement of their privileges. If reinstatement is not achieved by this deadline, the instructor must then satisfy the requirements of § 61.199(a)(2) or (a)(3) based on their circumstances.

The FAA received 37 comments pertaining to reinstatement of flight instructor privileges. Fifteen commenters supported the proposal, including AOPA, EAA, Liberty University School of Aeronautics, SSF, and LeTourneau University. Ten commenters opposed this proposal, including national FIRC provider AceCFI. Twelve commenters, including NAFI, made further suggestions or comments without clear support for, or opposition to, the proposal.

Comments Concerning Reinstating Flight Instructor Privileges by FIRC Within Three Calendar Months or Less

Fifteen commenters, including AOPA, EAA, and SSF, supported the proposal to add a three-calendar-month reinstatement period. AOPA stated the proposal would save time and provide incentive to instructors holding recently-expired certificates or privileges that have lapsed to rejoin the flight instruction community. EAA emphasized that this relief would aid instructors whose certificates inadvertently lapse simply because there is no longer an expiration date to reference on the certificate.

Comments Concerning the Duration of Reinstating Flight Instructor Privileges by FIRC

Some commenters questioned the selection of a three-calendar-month period for the proposed option to reinstate flight instructor privileges by completing a FIRC as being arbitrary. Three of these commenters asserted that the FAA did not provide data supporting why this option should be limited to a three-month period. They also maintained that the FAA did not provide data showing that a flight instructor's knowledge and skills do in fact decline over time when unused. Many commenters recommended extensions to six-calendar-months, 24-calendar-months, or even allowing indefinite reinstatement via FIRC completion. Several of these commenters stated that an extended period would provide additional flexibility and further incentive for instructors to retain their privileges. Additionally, some commenters likened an indefinite option to reinstate by FIRC to the process of a long-inactive pilot becoming current through a flight review.[23] Three commenters suggested extending the option to reinstate by FIRC beyond three months when exercised in conjunction with an

[20] Comment from Bruce Williams, Docket No. FAA–2023–0825–0090.

[21] § 61.199(a)(1) and (2).

[22] § 61.199(a)(3). Specifically, the military instructor pilot must provide a record showing that, within the preceding 6 calendar months from the date of application for reinstatement, the person either (1) passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check or (2) completed a U.S. Armed Forces' instructor pilot or pilot examiner training course and received an additional aircraft rating qualification as a military instructor pilot or pilot examiner that is appropriate to the flight instructor rating sought.

[23] *See* 14 CFR 61.56.

additional requirement to receive flight and/or ground training. For instance, one commenter recommended logging three hours of ground and flight training with another flight instructor to refresh instructional skills. Another commenter addressing this topic recommended changing the three-month period to a 12-month period when the flight instructor has provided instruction within the past 120 days and then require a practical test after 12 months of lapsed privileges. The third commenter recommended that, in lieu of reinstating privileges by completing a practical test, the flight instructor complete a FIRC at any time, and then complete suitable flight training with another qualified flight instructor and receive an endorsement.

The FAA does not agree with extending this proposed reinstatement option beyond three calendar months because doing so would compromise safety. Furthermore, the FAA notes that these commenters did not provide any supporting evidence to show that their recommendations would provide an equivalent level of safety without requiring a practical test conducted by an impartial examiner after three calendar months.

As discussed in the NPRM, AOPA initially recommended a three-month period to allow a flight instructor to reestablish recent experience by completing a FIRC. The FAA also considered this option after concluding that requiring a flight instructor to take a practical test shortly after their flight instructor certificate expires or recent experience ends imposes undue personal and financial burdens on that flight instructor. Thus, the FAA determined that there is a need for an alternative reinstatement option and proposed a three-calendar-month reinstatement period because flight instructor knowledge and skills do not necessarily degrade the day after their certificate expires or, as adopted by this final rule, their recent experience ends.

The FAA notes that skill degradation is a documented phenomenon that has long been a source of concern for many industries including the aviation industry. Industry concerns include serious safety issues that arise due to the degradation of skills that occur after a period of nonuse. Consequently, many leading industry organizations have conducted studies and published reports to understand and mitigate skill degradation for industry professionals to maintain proficiency. For example, the European Union Aviation Safety Agency's (EASA's) Safety Issue Report regarding skill and knowledge degradation during the COVID–19 pandemic explains that skill degradation poses serious challenges to pilots and flight instructors. In this report citing numerous references and studies, EASA states, ''Despite the initial recovery over the summer of 2021, flying activities are still not taking place at the pace required to keep all aviation professionals current. While organizations are making the effort to ramp up their training activity, they have faced a multitude of challenges such as the closure of training centers, lack of simulators, and lack of available instructors and trainers whose instructional knowledge may have also eroded during this period. Furthermore, new or updated operational procedures have been developed to cope with the changes in operations. With the aforementioned training constraints, aviation professionals may not be effectively trained in the updated systems and procedures upon their return to work.'' [24]

The FAA chose a three-calendar-month period because it is a brief enough period to reinstate flight instructor privileges before any significant proficiency degradation occurs. This period aligns with other similar currency requirements within part 61 and reflects an established understanding that instructional skills, while durable, do require periodic confirmation through structured training or assessment to ensure safety standards are maintained. This approach applies a safety standard consistent with other three-month pilot and flight instructor currency periods that have proven effective over time.

Further, the three-calendar-month period to reinstate a flight instructor's privilege by FIRC intends to accommodate persons who have encountered unforeseen circumstances that may have prevented them from renewing their certificates before the expiration date. A three-calendar-month period is sufficient to address various situations that might prevent an instructor from meeting their recent experience requirements. The rationale behind this specific timeframe is to provide instructors with a reasonable window to resolve personal matters, emergencies, or minor oversights that may have led to the lapse of their recent experience. For this reason, the FAA maintains that extending the reinstatement period by completing a FIRC is not appropriate in cases of lapses Beyond three calendar months of meeting recent experience or certificate renewal requirements.

Comments Concerning Alternative Reinstatement Options

Five commenters recommended additional options to reinstate flight instructor privileges. Of these five, one commenter recommended that any § 61.197 recent experience option should qualify an instructor to reinstate privileges during the proposed three-calendar-month period following the lapse of flight instructor privileges. LeTourneau University recommended an option to reinstate by receiving one hour of ground training, one hour of flight training and an endorsement from another flight instructor during the proposed three-calendar-month period. Two commenters recommended additional reinstatement options without specifying that the options should be limited to the proposed three-calendar-month period. One of these two recommendations was to allow the FIEQTP course to be used as a basis for reinstatement. The other recommendation was to allow a pilot proficiency or competency check, such as those required for pilots operating under part 121 or 135, to qualify a flight instructor for reinstatement. Finally, one commenter recommended that check pilot observations under § 135.339(a)(2) should qualify as a method to reinstate flight instructor privileges, equating this with the military pilot examiner reinstatement process outlined in § 61.199(a)(3)(i).

Upon review, the FAA has decided to retain the reinstatement method of completing a practical test conducted by the FAA or a designated pilot examiner and using an FAA-approved FIRC within the first three calendar months after a lapse of recent experience. The FAA based this decision on the recognition that a FIRC is an FAA-approved recurrent training program. The FIRC updates flight instructors on significant developments and changes in general aviation flight training that occurred since the instructor's last recent experience period. Additionally, a FIRC provides flight instructors with the necessary refresher training that exposes flight instructors to the latest in-flight training techniques, the newest technologies, and the latest operational safety procedures. FIRCs also emphasize the development and improvement of the instructor skills necessary to effectively convey information to pilots-in-training and build a foundational culture of safety within them.

An approved FIRC is unique among the recent experience options in that it provides this refresher training, making

[24] *See www.easa.europa.eu/community/system/files/2021-08/Safety%20Issue%20Report%20-%20%20Skills%20and%20Knowledge%20Degradation_REV2%20Clean_0.pdf.*

it suitable for this relieving option. Instructors who choose one of the other recent experience options do not receive this training. Therefore, the FAA considers it necessary for an instructor who has experienced a brief lapse in recent experience of up to three calendar months to receive, at a minimum, the training provided by an approved FIRC. Consequently, in the final rule, the FAA has decided not to include other methods of recent experience to qualify a flight instructor certificate for reinstatement during the three-month period.

Furthermore, the FAA finds the additional reinstatement options recommended by commenters as unsuitable. Historically, a flight instructor has not held the authority to endorse another instructor for renewal or reinstatement. The authority to reinstate a flight instructor certificate is reserved for the FAA or its designees. Therefore, the FAA finds that the recommendation for a flight instructor to have the authority to evaluate and provide an endorsement to reinstate another flight instructor whose recent experience has lapsed would not be appropriate.

Similarly, the FAA finds that an FIEQTP would be unsuitable to reinstate a flight instructor certificate. The FIEQTP is designed to train relatively inexperienced flight instructors how to teach new flight instructors and is not designed to meet the needs of reinstatement. Further, a flight instructor with lapsed privileges would not be the appropriate audience for such a course, since it is intended for individuals who actively provide instruction and have held a flight instructor certificate for less than 24 calendar months.

The recommendation to allow pilot proficiency and competency checks completed under part 121, 135, or the proficiency check of § 61.58 would also be inappropriate to reinstate a flight instructor certificate. The FAA notes that these checks focus on piloting skills rather than instructional abilities, thus not adequately assessing a flight instructor's educational competencies. Similarly, the recommendation to allow check pilot observations to reinstate flight instructor privileges would be unsuitable. These observations conducted under parts 121 and 135 require assessment of the check pilot's abilities as an evaluator; however, they do not assess the check pilot's instructional knowledge and skills. Although the FAA has long recognized that passing a U.S. Armed Forces instructor pilot or pilot examiner proficiency check provides the necessary standards for reinstating a flight instructor's privilege, the FAA does not find observations conducted under parts 121 and 135, or the proficiency check of § 61.58, acceptable options to reinstate flight instructor privileges. Consequently, the FAA declines to adopt the recommendations for additional reinstatement options.

Comments Concerning General Opposition to Any Reinstatement Relief

Two commenters opposed the proposal because they believed instructors should be held to higher standards and the additional relief granted to reinstatement by FIRC is contrary to this standard. The FAA agrees that instructors should be held to a high standard and the FAA believes the proposed reinstatement option retains such a standard. The FAA finds that the limited relief offered by completing a FIRC, during the initial three-calendar-month period in which their privileges have lapsed, does not compromise the long-held standard for instructional proficiency. Instead, this new relief encourages experienced instructors to reinstate their privileges and remain active in flight instruction if circumstances prevent them from re-establishing their recent experience prior to the end of their recent experience period. As previously noted, the FAA has retained the requirement to complete a practical test to reinstate flight instructor privileges after the initial three-calendar-month period, due to the need to ensure that instructional knowledge and skills have not degraded over prolonged periods of inactivity.

Comments Concerning Opposition To Reinstatement by Practical Test

Five commenters opposed the requirement to reinstate a flight instructor's privileges or certificate by practical test after the three-calendar-month period to reinstate privileges by completing a FIRC. Of these commenters, two recommended replacing the flight instructor reinstatement practical test with a proficiency check, similar to the instrument proficiency check specified under § 61.57. Another opposing commenter stated that requiring a test to reinstate flight instructor privileges does not align with the other pilot recent experience requirements.

The fundamental role an instructor plays in training pilots directly impacts aviation safety. The effectiveness of the instruction provides the foundation of the knowledge and skill of the pilot receiving the training. For this reason, the FAA finds it necessary to require a practical test to reinstate flight instructor privileges after the three-calendar-month period allowing reinstatement by completing a FIRC. Although other forms of pilot recent experience do not require the equivalent of a reinstatement practical test for those who fail to maintain currency, it is the critical importance of the instructor role in aviation safety that necessitates a practical test in the case of an instructor who is more than three-calendar-months past the end of their last recent experience period.

Comments Concerning a Recommendation To Incorporate by Reference the Flight Instructor Airman Certification Standards for Reinstatement

One commenter recommended § 61.199(a)(2)(i) incorporate by reference the proposed Flight Instructor for Airplane Category Airman Certification Standards reinstatement requirements, which were published in an NPRM docket for a separate rule.[25] The FAA notes that the Airman Certification Standards or Practical Test Standards appropriate for the category rating sought would apply to a reinstatement practical test, regardless of reference to a specific document.

Comments Concerning the Difference Between the Three Calendar Month Period for Reinstatement by FIRC to the Relief Provided by SFAR No. 100–2

One commenter opposed the proposal because they believed it does not align with SFAR No. 100–2, which provides relief to certain military service personnel that could extend comparable relief up to six months after returning from overseas deployment. The commenter questioned why these personnel receive additional relief as opposed to the three-calendar-month period to reinstate by FIRC.

The relief provided by SFAR No. 100–2 has existed since the FAA issued SFAR No. 96 on May 6, 2002.[26] Since then, the relief was expanded to include all personnel serving abroad in support of U.S. military operations.[27] [28] SFAR No. 100–2 is effective until further

[25] Airman Certification Standards and Practical Test Standards for Airmen; Incorporation by Reference, Docket No. FAA–2022–1463.

[26] *Relief for Participants in Operation Enduring Freedom* 67 FR 30524 (May 6, 2002).

[27] *Relief for U.S. Military and Civilian Personnel Who Are Assigned Outside the United States in Support of U.S. Armed Forces Operations* final rule; request for comments 68 FR 36902 (Jun. 20, 2003).

[28] *Relief for U.S. Military and Civilian Personnel Who Are Assigned Outside the United States in Support of U.S. Armed Forces Operations* final rule, 70 FR 37946 (Jun. 30, 2005).

notice.[29] This relief continues to be necessary to avoid penalizing U.S. personnel who are unable to meet the regulatory time limits of their privileges because they served outside the United States in support of U.S. Armed Forces operations. Consequently, the FAA proposed to codify this relief in new § 61.40 without any substantive changes. This relief allows a flight instructor with an expired certificate, or whose recent experience has lapsed, to reestablish their flight instructor privileges when they satisfy the appropriate requirements.

The initial three-calendar-month period allowing reinstatement by FIRC is intended to address limited unique circumstances that may prevent a flight instructor from establishing recent experience prior to the end of their recent experience period. Conversely, a military deployment has longer-term impact than addressed by the three-month period provided by § 61.199(a)(1). The FAA notes that the relief provided by § 61.40 and § 61.199 respond to two distinctly different circumstances that necessitate separate solutions. As a result, the FAA finds it inappropriate to extend the three-calendar-month period to align with the relief available to U.S. military and civilian personnel assigned outside the United States in support of U.S. Armed Forces operations.

Comments Concerning the Relief Provided by the Proposed Reinstatement Requirements

One commenter, a national FIRC provider, opposed the proposal believing that the new requirements will only shift dates but result in the same consequences after the three-calendar-month period allowing reinstatement by FIRC. The commenter contended that this is not a burden reduction to instructors.

The FAA maintains that the three-calendar-month period will provide relief in many situations. Examples range from minor personal challenges to larger issues such as a natural disaster that could prevent a flight instructor from completing recent experience requirements prior to the end of their recent experience period. The FAA intends this relief to address these limited circumstances. As previously noted, numerous commenters supported the proposal and provided rationale which agrees with this intent. In its supporting comment, EAA stated that this option provides ''a reasonable pathway for instructors who have inadvertently allowed a lapse in their flight instructor recent experience.'' SSF said flight instructors would benefit from the additional method of reinstatement.

E. Instructor Qualifications for Training Initial Flight Instructor Applicants (§ 61.195(h); § 141.11; Part 141, Appendix K)

This final rule revises the qualification requirements for flight instructors seeking to train initial flight instructor applicants by adding two additional methods.

Section 61.195(h) contains the qualification requirements for flight instructors seeking to instruct initial flight instructor applicants. The NPRM proposed to restructure § 61.195(h)(2) to contain general qualifications for all flight instructors providing flight training to initial applicants for a flight instructor certificate, including flight instructors providing training under FAA-approved courses. This final rule retains these general requirements, which include the requirement for the flight instructor to meet the eligibility requirements of § 61.183 and hold the appropriate flight instructor certificate and rating. The FAA also proposed to require the flight instructor to meet the requirements of the part under which the flight training was conducted. In addition to these general requirements, the final rule provides three different qualification options.

The first option retains the existing requirements of current § 61.195(h)(2)(iii), (iv) and (v), which include the requirements for the flight instructor to have held the flight instructor certificate for at least 24 calendar months and to have given at least 200 hours of flight training as a flight instructor for training in preparation for an airplane, rotorcraft, or powered-lift rating (or 80 hours of flight training if training in preparation for a glider rating). This option is retained as § 61.195(h)(2)(i)(A) and (B).

The second qualification option modifies the previous § 61.195(h)(3). Previously, § 61.195(h)(3) allowed a person to serve as a flight instructor in an FAA-approved course for initial flight instructor applicants if that person has trained and endorsed at least five applicants for a practical test, at least 80 percent of those applicants passed the practical test on their first attempt, and the flight instructor has given at least 400 hours of flight training for training in an airplane, rotorcraft, or powered-lift rating (or 100 hours of flight training for training in a glider rating). This final rule modifies these requirements in the new § 61.195(h)(2)(ii) by removing the minimum flight training hour requirement and removing the requirement for the flight instructor to be serving in an FAA-approved course. Section 61.195(h)(2)(ii) now requires a flight instructor to have trained and endorsed, in the preceding 24 calendar months, at least five applicants for a practical test for a pilot certificate or rating, and at least 80 percent of those applicants must have passed that test on their first attempt. This will allow more flight instructors to exercise this qualification option as compared to the similar option previously available under § 61.195(h)(3).

For the third qualification, this final rule adds a new qualification method in § 61.195(h)(2)(iii). This option requires a flight instructor to have graduated from an FAA-approved flight instructor enhanced qualification training program (FIEQTP). Additionally, they must have given at least 200 hours of flight training as a flight instructor for training in preparation for an airplane, rotorcraft, or powered-lift rating (or 80 hours of flight training if in preparation for a glider rating) before being eligible to complete the FIEQTP.

The modified § 61.195(h)(2)(ii) and the new § 61.195(h)(2)(iii) are intended to expand the qualification options to instruct initial flight instructor applicants to include those serving under part 61 as well as those serving under an FAA-approved course under part 141 or 142.

Additionally, to allow part 141 pilot schools to provide the FIEQTP, the FAA proposed to revise § 141.11 by adding the training program to the list of special preparation courses in § 141.11(b)(2). The FAA also proposed to add the new training program to appendix K of part 141, which prescribes the minimum curriculum for the special preparation courses listed in § 141.11.

Due to the specific nature of each provision, the FAA discusses each amendment separately.

Comments Concerning the Qualification Option of Holding a Flight Instructor Certificate for at Least 24 Calendar Months With Minimum Hours of Instruction (§ 61.195(h)(2)(i))

Currently under § 61.195(h)(2), a flight instructor must, in addition to other requirements, have held a flight instructor certificate for at least 24 months and have given at least 200 hours of flight training as a flight

[29] *Relief for U.S. Military and Civilian Personnel Who Are Assigned Outside the United States in Support of U.S. Armed Forces Operations* direct final rule, 75 FR 9763 (Mar. 4, 2010). *Relief for U.S. Military and Civilian Personnel Who Are Assigned Outside the United States in Support of U.S. Armed Forces Operations* confirmation of effective date, 75 FR 19877 (Apr. 16, 2010).

instructor for an airplane, rotorcraft, or powered-lift rating (or 80 hours of flight training if in preparation for a glider instruction rating) to provide flight training to an initial flight instructor applicant under part 61. The FAA proposed to retain this qualification method under paragraph (h)(2)(i). The FAA received an array of comments supporting and opposing the retention of this qualification method.

Two commenters recommended lowering the eligibility requirements to qualify under this option. One of these commenters stated that the 24-calendar-month requirement presents an unnecessary obstacle to training initial flight instructor applicants and should be removed. Another commenter recommended reducing the minimum time to qualify to train an initial flight instructor in gliders from 80 to 20 hours of flight training, stating that the ''80 hours of glider instruction'' requirement is excessive, given the seasonal nature of soaring operations and the short duration of pattern tows and aerotows.[30]

Several commenters expressed the opinion that this qualification option may not be restrictive enough. Three commenters opposed this option due to doubts about whether these criteria assure sufficient instructional experience. Another commenter said that flight instructor experience differs from pilot experience and noted that 200 hours of instructional experience may not guarantee the flight instructor has the necessary qualifications to train an initial flight instructor applicant effectively. One commenter proposed increasing the hours of instructional experience from 200 to 500 hours.

While the FAA considered all the commenters' concerns and recommendations, the FAA does not agree that retaining this qualification requirement as it currently exists is either too restrictive or not restrictive enough. The FAA notes that over the years this existing requirement has proven to be an appropriate and effective standard. Adopted in a 1973 final rule, the flight instructor requirement has remained unchanged, which has allowed 50 years for both the FAA and industry to assess its effectiveness in achieving the intended safety standard.[31] Given that proposed § 61.195(h)(2) retains this standard established in 1973 and has proven to provide a sufficient level of experience, the FAA believes that requiring more experience would impose an undue burden on the flight training industry as the FAA does not have data to demonstrate such a change would have a corresponding increase in safety. Conversely, reducing this qualification standard could lead to a decrease in the level of instructional skills, which in turn would diminish safety. As a result, the final rule retains the existing standard without modification.

To provide additional relief while maintaining the existing standard, the FAA addresses the flight training industry's need for qualified instructors by introducing two alternative qualification methods that allow a flight instructor to train an initial flight instructor applicant in less than 24 months or with fewer than 200 hours of flight instruction (or 80 hours in the case of glider instruction) while retaining equivalent instructor experience to this existing qualification option.

One commenter proposed that the FAA should codify the issuance of gold seal flight instructor certificates in the regulations and allow only instructors with such certificates to be permitted to train initial flight instructor applicants. The gold seal flight instructor certificate, under current practice, is issued to instructors who exceed the standard regulatory requirements required for a flight instructor certificate and demonstrate high personal qualifications and exemplary records as active flight instructors. While this gold seal denotes a level of distinction to recognize instructors who have high personal qualifications and good records as active flight instructors, it does not confer additional flight instructor privileges.

Currently, the issuance of gold seal flight instructor certificates is based on FAA policy rather than regulatory authority.[32] Thus, adopting the commenter's recommendation would require additional rulemaking to codify gold seal flight instructor certificates into regulation. The FAA concludes that the commenter's recommendation would reduce the number of flight instructors that would be eligible to train initial flight instructor applicants. There are a relatively small number of instructors who qualify or hold a gold seal on their flight instructor certificate, which would result in an insufficient number of available flight instructors qualified to provide training to an initial flight instructor applicant. For these reasons, the FAA will not adopt this recommendation.

Comments Concerning Qualification By Successfully Endorsing Applicants for Practical Tests (§ 61.195(h)(2)(ii))

Under this final rule, the FAA provides a modified § 61.195(h)(3) qualification option for flight instructors who wish to provide training to initial flight instructor applicants. As per the § 61.195(h)(2)(ii), a flight instructor may qualify to instruct an initial flight instructor applicant if that flight instructor has trained and endorsed at least five applicants for a practical test during the preceding 24 calendar months, and at least 80 percent of those applicants passed that test on their first attempt.

Several commenters, including Liberty University and Eastern Kentucky University, expressed support for this new qualification option. Liberty University stated the qualification option based on applicants endorsed for practical tests is ''very encouraging as it rewards excellent instruction and student success.'' Eastern Kentucky University said that both new options ''provide much needed relief for the flight training industry.''

AOPA commented that the current 400-hour requirement for part 141/142 flight instructors is excessively burdensome. They recommended that the parts 141 and 142 requirement be lowered to 200 hours to align with the part 61 requirement.

In response, the FAA clarifies that under the new § 61.195(h)(2)(ii), the requirement to provide a specific number of flight training hours has been removed, addressing AOPA's concern. Furthermore, all qualification options available under § 61.195(h) apply equally to any instructor, regardless of whether the instruction is provided within an FAA-approved course.

Five commenters, including ALPA, opposed this qualification option, as they perceived this option would lower experience requirements, possibly resulting in reduced proficiency of initial flight instructor applicants.

In response, the FAA notes that an eligible flight instructor is required to have a record of demonstrated success training applicants under this qualification option. When a flight instructor recommends an applicant for a practical test, the applicant is independently evaluated by the FAA or designated examiner. This applicant assessment provides a performance measure that attests to the endorsing flight instructor's experience and instructional ability. At the end of each practical test, the FAA or examiner submits the applicant's paperwork and

[30] Comment from Lawrence Spinetta, Docket No. FAA–2023–0825–0013.

[31] *Miscellaneous Amendments* 38 FR 3156 (Feb. 1, 1973).

[32] FAA Order 8900.1, Volume 5, Chapter 2, Section 13.

other relevant documentation to the Airmen Certification Branch. Here, it undergoes a final review, is officially accepted, and retained as part of the airman's FAA record. This process results in a reliable method to measure the instructor's competency through the rate of applicants who pass on their first attempt. For these reasons, the FAA finds that the § 61.195(h)(2)(ii) qualification option provides an equivalent level of experience to the existing standard of holding a flight instructor certificate for 24 calendar months and providing 200 hours of flight instruction.

Six commenters, including AOPA, NAFI, and SAFE, expressed concerns regarding instructors obtaining sufficient experience under the proposed option. These commenters provided examples such as a flight instructor endorsing applicants they trained only in the later stages of the applicants' training or flight instructors endorsing applicants they trained in an accelerated course of training, such as a course to add an additional class rating to an existing pilot certificate.

Several commenters expressed concern about an instructor qualifying under this option with limited experience and recommended adding additional requirements to address this concern. Recommendations included increasing the minimum number of applicants an instructor must endorse for a practical test from five to ten, extending the period an instructor must have held their flight instructor certificate to at least 24 months, specifying a minimum number of hours of flight training provided, or requiring the instructor to complete the entire course of training for each applicant they endorse.

In addressing these concerns, the FAA notes that the efficacy of a flight instructor is not solely dependent on the cumulative hours of flight instruction provided but is also significantly influenced by the quality of instruction and the resultant success of their students. An essential aspect of an instructor's role is their ability to prepare and assess whether the applicant is competent. To recommend an applicant for a practical test, an instructor must assess the applicant's competence in the appropriate aeronautical knowledge areas and proficiency in the appropriate areas of operation. The flight instructor must then attest to the adequacy of their assessment in their endorsement when recommending the applicant for the test.

The successful evaluation of the applicants endorsed by the instructor and then validated by the FAA or designated examiner further confirms the instructor's record of success in training initial applicants. For these reasons, the FAA finds that this qualification option provides an equivalent level of experience to the existing standard of holding a flight instructor certificate for 24 calendar months and providing 200 hours of flight instruction.

One commenter expressed concern regarding their understanding of the § 61.195(h)(2)(ii) qualification option, specifically regarding the requirement for flight instructors to demonstrate their experience ''during the preceding 24 calendar months.'' The commenter interpreted this as a perpetually ongoing requirement and expressed concern that this would pose a burden to flight instructors.

The FAA agrees that if an instructor utilizes this qualification option, they must meet the required experience within the 24 calendar months preceding the training or endorsement they wish to provide to an initial flight instructor applicant. However, this requirement is not intended to be an ongoing mandate to requalify. Once that instructor meets an alternate qualification method, they would no longer need to meet the activity level required by § 61.195(h)(2)(ii) within the preceding 24 calendar months to continue to train initial flight instructor applicants.

For instance, an instructor who has held their flight instructor certificate for at least 24 calendar months and has given 200 hours of flight instruction (or 80 hours in the case of glider) is then qualified to train an initial flight instructor under § 61.195(h)(2)(i). In this example, the activity level required under § 61.195(h)(2)(ii) would no longer apply. For this reason, the FAA does not anticipate the § 61.195(h)(2)(ii) option to qualify to train an initial flight instructor to be prohibitive to the flight instructor community.

Four commenters including the University of North Dakota, Embry-Riddle Aeronautical University, and Western Michigan University, sought clarification on whether flight instructors who instruct in an approved part 141 training course for which the pilot school holds examining authority could utilize the qualification option under § 61.195(h)(2)(ii). Specifically, they recommended clarifying whether the end-of-course test in a course with examining authority is considered a practical test.

The FAA has established that an end-of-course test under part 141 administered by a school with examining authority is a practical test and may be considered for the purposes of § 61.195(h)(2)(ii).[33] Therefore, a flight instructor in part 141 courses with examining authority may qualify to train an initial flight instructor applicant in accordance with § 61.195(h)(2)(ii).

Comments Concerning Qualification Based on an FAA-Approved FIEQTP (§ 61.195(h)(2)(iii) and (h)(3))

The third qualification option, § 61.195(h)(2)(iii), provides another alternative to the 24 calendar month experience requirement. This qualification option permits a flight instructor to qualify to instruct initial flight instructor applicants if the flight instructor has given at least 200 hours of flight training (or 80 hours of flight training if in preparation for a glider rating) and has graduated from an FAA-approved FIEQTP conducted under part 141 or 142. This training program must satisfy the requirements in § 61.195(h)(3) and is intended to develop a flight instructor's ability to instruct initial flight instructor applicants.

ALPA expressed concerns regarding the FIEQTP, questioning whether the program provides equivalent experience to the current requirements.

In addressing ALPA's concern, the FAA notes that the FIEQTP replaces the requirement to hold a flight instructor certificate for 24 months. Instructors are still required to have provided 200 hours of flight training (or 80 hours of flight training if in preparation for a glider rating). These hour requirements have long been the standard flight instructor experience to train initial flight instructor applicants and have proven effective. Therefore, before taking the FIEQTP, the new flight instructor will acquire hands-on experience as a flight instructor in the aircraft. This experience, combined with the knowledge and skills acquired from completing the FIEQTP would prepare and qualify the flight instructor to instruct initial flight instructor applicants.

Embry-Riddle Aeronautical University and Liberty University commented on the required FIEQTP training content, expressing similar opinions that the course appears to be flight instructor remedial training. One commenter also presented a series of questions about the FIEQTP training content and testing standards. This commenter specifically questioned how much of the FIEQTP would repeat

[33] *See* Legal Interpretation to Crowe-Palm Beach Helicopters (August 28, 2015). *drs.faa.gov/browse/excelExternalWindow/FAA000000000LEGALINTPR2015017PDF.0001.*

testing and training the flight instructor received during their own commercial pilot and initial flight instructor training. Another commenter recommended that the FIEQTP should be limited to only ground instruction and available as an online course to increase access to flight instructors.

The FAA notes that FIEQTP course content, as detailed in § 61.195(h)(3), is not intended to be remedial or simply a review of what attendees have previously learned. The FIEQTP provides specialized training to develop the attendee's ability to instruct initial flight instructor applicants. Furthermore, the recommendation to eliminate the flight training component from the course has been carefully evaluated. The FAA believes that excluding this aspect would undermine the training program's effectiveness, as flight training is integral in preparing attendees to competently provide practical flight training to initial flight instructor applicants. Therefore, the FAA will not limit this course to only ground instruction.[34]

One commenter recommended that the required content of the FIEQTP found in § 61.195(h)(3) should be less prescriptive and instead focus on course outcomes.

The FAA notes that specific ground subjects and flight tasks outlined in § 61.195(h)(3)(i) and (ii) are required to be included in the FIEQTP to ensure clarity and consistency across various course providers. The FAA finds that defining the specific content aids both the course providers and the approving FAA officials in determining what is required for the FIEQTP.

Embry-Riddle Aeronautical University recommended a reduction in the required hours for both ground and flight training in the FIEQTP because the flight instructors enrolled in the course would have received similar training during their own initial flight instructor training. Additionally, another commenter raised concerns about the time commitment required in the FIEQTP, suggesting it could limit the availability of qualified instructors.

As discussed in the NPRM, the FAA expects that the requirement of 25 hours of ground training and 10 hours of flight training would promote standardization among the training programs. The FAA believes that reducing minimum course hours would potentially compromise the depth and breadth of the knowledge, skills, and abilities that attendees are expected to acquire. Therefore, the FAA declines to adopt these recommendations.

AOPA and Liberty University questioned the anticipated utilization of completing an FIEQTP to qualify to train an initial flight instructor due to the associated cost and complexity of qualifying to train a limited segment of the pilot population. Another commenter expressed similar sentiment about limited access to the course for instructors outside the part 141 or 142 certificate holder offering the course and suggested allowing other entities to seek FIEQTP course approval under part 61.

The FAA acknowledges these concerns but emphasizes that the FIEQTP is designed as an option to qualify to train initial flight instructor applicants. While the FIEQTP might appeal to the course provider's own instructors, it is important to note that the FIEQTP is open to all flight instructors, irrespective of their current affiliations. The intent is to provide an additional qualification option to all flight instructors to maximize flexibility.

The decision to limit approval to parts 141 and 142 certificate holders is based on the specific capabilities inherent to these entities, which are equipped with the necessary organizational structure, systems, and qualified management personnel. Furthermore, by limiting approval to parts 141 and 142 certificate holders, the FAA has oversight and can mandate changes to ensure that programs meet the intended course objectives.

The University of North Dakota and Embry-Riddle Aeronautical University recommended that a part 141 chief instructor should be authorized to designate who may teach in an approved FIEQTP to provide a greater pool of instructors for these courses. Another commenter similarly expressed concerns about the difficulty in finding qualified instructors for the FIEQTP due to the significant time commitment involved in the course.

Given the specialized nature of the FIEQTP, the FAA finds that a higher level of expertise and experience is required. The designated groups—chief and assistant chief instructors at part 141 pilot schools and program managers and assistant training center program managers at part 142 training centers—are deemed to have the requisite experience and expertise for this advanced training role. Additionally, those instructors who fulfill the qualifications of a chief instructor or assistant chief instructor pursuant to § 141.36(d) are also eligible to instruct the FIEQTP. The FAA recognizes that these instructors possess the necessary qualifications to be a chief instructor or assistant chief instructor, even if they do not currently hold these titles due to reasons unrelated to their instructional abilities.

Considering the specialized nature of the FIEQTP, the FAA does not support the recommendation to allow a part 141 chief instructor to designate personnel with potentially less experience or knowledge than those specified in the approved groups to teach within an FIEQTP. Therefore, the FAA declines to reduce FIEQTP instructor requirements.

Use of Flight Simulation Training Devices in FIEQTPs

Appendix K of part 141 contains limitations for special preparation courses utilizing full flight simulators (FFSs) and flight training devices (FTDs) that are more restrictive than § 61.195(h)(3)(iv) and (v) permit. Specifically, paragraph 4.(b) of appendix K provides that an FFS may only be credited for a maximum of 10% of the total flight training hour requirements of the approved course, and paragraph 4.(c) provides that an FTD may be credited for a maximum of 5 percent of the total flight training hour requirements of the approved course. However, § 61.195(h)(3)(iv) and (v) proposed to permit all flight training hours to occur in an FFS or FTD and 5 hours of flight training to occur in an advanced aviation training device. Therefore, to eliminate the conflict between the provisions, the NPRM proposed to revise paragraph 4.(b) to except the FIEQTP from the FFS credit limitations of appendix K, and proposed to revise paragraph 4.(c) to except the FIEQTP from the FTD credit limitations of appendix K. The FAA did not receive any comments specific to the use of flight simulation training devices in FIEQTPs and is therefore adopting these provisions.

Additionally, part 141 prescribes the circumstances under which aviation training devices (ATDs) may be utilized for flight training credit. However, appendix K of part 141 only contemplates the use of an FFS and an FTD for special preparation flight training, not an ATD. Because an advanced aviation training device (AATD) may be used in flight training for FIEQTPs, the FAA proposed to revise appendix K, paragraph 4. Specifically, paragraph 4.(a) would include a provision that only permits an FIEQTP to utilize AATDs in accordance with appendix K, paragraph 14, and § 61.195(h)(3)(v). The FAA did not receive any comments regarding these provisions and is adopting them as final.

[34] For additional guidance and recommendations on the preparation and approval of an FIEQTP required under § 61.195(h)(3), refer to Advisory Circular 61–145.

F. Conforming Amendments (§§ 61.2, 61.56, 61.425, 61.427)

The FAA proposed to make conforming amendments to §§ 61.2, 61.56, 61.425, 61.427, and Special Federal Aviation Regulation (SFAR) No. 100–2 to ensure consistency with the FAA's proposal to amend §§ 61.197 and 61.199.

Section 61.2(b) requires persons to meet the appropriate airman and medical recent experience requirements to exercise privileges of an airman certificate, rating, endorsement, authorization, or foreign pilot license. Currently, § 61.2(b) refers to the recent experience requirements of part 61 as ''recency'' requirements rather than ''recent experience'' requirements. The FAA recognizes that it uses the terms ''recency,'' ''recent flight experience,'' and ''recent experience'' requirements interchangeably in the regulations. However, the terms ''recent flight experience'' and ''recent experience'' are used more frequently than ''recency.'' The FAA proposed to revise § 61.2(b) to use the term ''recent experience'' requirements to create consistency within part 61 and conform to the proposed changes to § 61.197. The FAA did not receive any comments on this proposed revision and is adopting it as final.

Section 61.56 prescribes the requirements for a flight review, which must consist of a minimum of 1 hour of flight training and 1 hour of ground training. Except as specified in § 61.56(d), (e), and (g), a person may not act as pilot-in-command (PIC) of an aircraft unless that person has accomplished a flight review in the 24 calendar months preceding the month in which the pilot acts as PIC.[35]

Therefore, § 61.56(d) contains certain exceptions to the flight review requirements. Under § 61.56(d)(2), a person need not accomplish a flight review if the person has passed a practical test conducted by an examiner for one of the following: the issuance of a flight instructor certificate, an additional rating on a flight instructor certificate, renewal of a flight instructor certificate, or the reinstatement of a flight instructor certificate. Therefore, the FAA proposed to revise the language of § 61.56(d)(2) to conform to the changes proposed in §§ 61.197 and 61.199. The FAA did not receive any comments on this conforming amendment and is adopting it as final.

Additionally, the FAA proposed a minor editorial change to § 61.56(e) to remove the word ''award'' in the description of the FAA-sponsored pilot proficiency program. The FAA did not receive any comments on this editorial change and is adopting it as final.

Section 61.56(f) provides an exception to the ground training portion of the flight review requirement. Under current § 61.56(f), a person who has satisfactorily renewed their flight instructor certificate under current § 61.197 is not required to accomplish the one hour of ground training required for a flight review. Because proposed § 61.197 would contain recent experience requirements for a flight instructor certificate rather than renewal requirements, the FAA proposed to make conforming amendments to § 61.56(f). Therefore, § 61.56(f) would except a flight instructor from the ground training requirements of a flight review if that flight instructor has met the recent experience requirements for a flight instructor certificate under § 61.197. Further, the FAA proposed to revise § 61.56(f) to except any persons who reinstate their flight instructor privileges from the ground training portion of the flight review by completing an approved FIRC within the three-calendar-month reinstatement period proposed in § 61.199(a)(1). The FAA did not receive comments on these provisions and is adopting them as proposed.

Currently, §§ 61.425 and 61.427 prescribe renewal and reinstatement requirements for persons who hold a flight instructor certificate with a sport pilot rating. Under § 61.425, a person who holds a flight instructor certificate with a sport pilot rating may renew that certificate in accordance with § 61.197. Section 61.427 allows a person to exchange their expired flight instructor certificate with a sport pilot rating for a new certificate with a sport pilot rating and any rating on that certificate by passing a practical test as prescribed in § 61.405(b) or § 61.183(h) for one of the ratings listed on their expired flight instructor certificate.

To ensure consistency with the proposed amendments to §§ 61.197 and 61.199, the FAA proposed to make conforming amendments to §§ 61.425 and 61.427. The FAA proposed to bifurcate § 61.425 into two paragraphs. Section 61.425(a) would govern flight instructor certificates issued without expiration dates. Section 61.425(b) would govern flight instructor certificates issued prior to the final rule becoming effective, which would contain expiration dates. Thus, § 61.425(a) would require a person who holds a flight instructor certificate with a sport pilot rating issued after the final rule's effective date to establish recent experience in accordance with § 61.197 (*i.e.,* within the 24 preceding months, the person has satisfied one of the recent experience requirements in § 61.197(b)). For persons who hold unexpired flight instructor certificates with a sport pilot rating issued before the final rule becomes effective, § 61.425(b) would allow those persons to renew their certificate by establishing recent experience in accordance with § 61.197 prior to the expiration month listed on their flight instructor certificate.

In addition, the FAA proposed to revise § 61.427 to align with the proposed amendments to § 61.199. Therefore, proposed § 61.427 would address how to reinstate flight instructor privileges if a person fails to establish recent experience for a flight instructor certificate with a sport pilot rating. Consistent with proposed § 61.199, a person who holds a flight instructor certificate with a sport pilot rating must reinstate their flight instructor privileges by successfully completing an approved FIRC if three calendar months or less have passed since the last month of their recent experience period. Section 61.427(a) would contain this proposed requirement. If more than three calendar months have passed since the last month of the flight instructor's recent experience period, the flight instructor with a sport pilot rating would be required to pass a practical test in accordance with proposed § 61.427(b) to reinstate their flight instructor privileges.

The FAA did not receive comments specific to these provisions as they relate to sport pilots, as differentiated from other pilots. Therefore, the FAA is adopting these provisions as discussed previously.

G. SFAR No. 100–2 Codification Under § 61.40 and Associated Amendments

Currently, SFAR No. 100–2 provides relief to U.S. military and civilian personnel who have served outside the United States in support of U.S. Armed Forces operations during some time beginning on or after September 11, 2001. SFAR No. 100–2 allows these persons to present an expired flight instructor certificate to show eligibility for renewal of a flight instructor certificate under § 61.197; an expired written test report to show eligibility to take a practical test under parts 61, 63, and 65; and an expired inspection authorization to show eligibility for renewal under § 65.93. To exercise the relief provided by SFAR No. 100–2, the person must renew their flight instructor certificate or inspection authorization, as appropriate, or pass

[35] 14 CFR 61.56(c).

the appropriate practical test within six calendar months after returning to the United States. The FAA proposed to codify the general contents of SFAR No. 100–2 as new § 61.40.

The initial intent of SFAR No. 100–2, as documented in the preambles of earlier SFARs such as SFAR No. 96 [36] and SFAR No. 100,[37] was to alleviate the challenges faced by military and civilian personnel whose certificates expired while they were deployed. However, ambiguities in the language of SFAR No. 100–2 have led to confusion about the exact timing of when certain documents must have expired to qualify for this relief. As written in SFAR No. 100–2 currently, and proposed in § 61.40(b)(2), the regulation broadly requires that the documents expire ''some time'' between September 11, 2001, and no later than 6 calendar months after returning to the U.S., which the FAA finds could introduce confusion as to whether the expiration must have occurred during the person's service outside the U.S or immediately following the person's return.

In response to these ambiguities, the FAA revises § 61.40(b)(2) in this final rule to clarify the expiration period of the relevant certificates as (1) while the person serves in an operation as set forth in § 61.40(b)(1), or (2) six calendar months after returning to the United States.

One commenter responded with an opposing comment. The commenter opposed the underlying inspection authorization renewal options of § 65.93(a)(1) and (2). The commenter recommended that these options should be combined to allow an inspection authorization to be renewed based on a combination of annual inspections and major repairs or alterations. However, this commenter's recommendation exceeds the scope of this rulemaking, which focuses solely on relocating and codifying the existing content of SFAR No. 100–2 into the regulations. This rulemaking did not contemplate nor intend changing the underlying inspection authorization renewal requirements. Therefore, the FAA declines to adopt this recommendation.

The FAA proposed to revise certain sections of parts 61, 63, and 65 to enable persons to exercise the relief provided by proposed § 61.40. More specifically, the FAA proposed to revise § 61.39, which contains the prerequisites for practical tests under part 61, by adding new § 61.39(e) to allow applicants for an airman certificate or rating under part 61 to take a practical test with an expired knowledge test if that applicant meets the requirements of proposed § 61.40. The FAA also proposed to include exception language referencing new § 61.39(e) in § 61.39(a), (b), and (c), which would implement the relief provided by proposed § 61.40. With respect to part 63, the FAA proposed to revise §§ 63.35(d) and 63.53 to allow applicants for flight engineer certificates or ratings and applicants for flight navigator certificates to take their practical tests under part 63 with expired written test reports in accordance with § 61.40.[38] With respect to part 65, the FAA proposed to revise §§ 65.55 and 65.71 [39] to allow applicants for aircraft dispatcher certificates and mechanic certificates or ratings to take their practical tests under part 65 with expired written test reports in accordance with § 61.40. Section 65.55(b) and (c) was proposed to add an exception to allow eligible persons to take a practical test for an aircraft dispatcher certificate under part 65 with an expired written test report in accordance with § 61.40. Section 65.75(d) was proposed to except eligible persons from the requirement that a certificated mechanic must pass the required tests within a period of 24 months. These revisions would ensure the relief currently provided by SFAR No. 100–2 would remain unchanged under the FAA's proposal to relocate and codify the relief in the regulations.

Lastly, in § 61.40(a)(6) the FAA proposed to allow persons to renew an expired inspection authorization under § 65.93. Because § 65.93 does not currently allow for this relief, the FAA proposed to add new paragraph (d) and to include exception language in current § 65.93(a) to expressly allow an eligible person to renew an expired inspection authorization under part 65 in accordance with § 61.40.

The FAA did not receive comments directly related to these provisions and is adopting them as final.

H. Miscellaneous Comments

LeTourneau University requested changes to Advisory Circular (AC) 61–65, particularly to reassess the sample endorsements for student solo (A.4, A.6, and A.7), which they believed do not align with the interpretation letter from the FAA's Office of the Chief Counsel to James McHenry dated May 21, 2015.[40] This legal interpretation stated that § 61.87(n) and (p) apply only to the solo logbook endorsement.

The FAA understands the University's comment to mean that they believe the sample endorsements in AC 61–65 do not align with the McHenry (2015) legal interpretation. However, the University did not provide a detailed explanation for this belief.

The FAA notes that the McHenry (2015) legal interpretation characterizes daytime solo endorsements as one type of endorsement, while the nighttime solo endorsement is characterized as a separate endorsement. The FAA believes that retaining each solo endorsement recommended in AC 61–65 ensures that the flight instructor who provided the required training certifies that the training was indeed provided. As a result, the FAA declines to change these suggested endorsements.

One commenter asked if the standards to receive and retain a gold seal flight instructor certificate would change because of this rulemaking. Another commenter recommended that the FAA revise the eligibility criteria for gold seal flight instructor certificates and take into consideration more than just recommendations for a practical test to determine eligibility.

As discussed in section IV.D. of this preamble, gold seal flight instructor certificates are not issued under regulatory authority, but instead issued under FAA policy. The FAA did not contemplate changing this policy as part of this rulemaking. Adopting the commenter's recommendation to change the existing standard would require additional rulemaking to codify gold seal flight instructor certificates. Additionally, the FAA policy for the issuance of a gold seal flight instructor certificate relies on a flight instructor's recommendations for practical tests because these recommendations result in a demonstrated record of success training pilots, as assessed by the FAA or designated examiner. This assessment provides a performance measure that attests to the endorsing flight instructor's proficiency and instructional ability. Eligibility criteria not relying on this performance measure would not ensure the flight instructor meets the intended standards. For these

[36] The final rule for SFAR No. 96 stated, ''if an inspection authorization expires while a person is assigned to Operation Enduring Freedom . . .'' (67 FR at 30525).

[37] The final rule for SFAR No. 100 stated, ''[b]ecause of the expected duration of these assignments, the FAA determined that the flight instructor certificates, inspection authorizations, and airman written test reports held by some U.S. military and civilian personnel may expire before they return to the United States.'' (68 FR at 36903).

[38] Additionally, the FAA proposed to revise § 63.35(c) to remove a gender reference and clarify that the 24 month period is calendar months.

[39] The FAA also proposed to revise § 65.71(a)(4) to remove a gender reference and clarify that the 24 month period is calendar months.

[40] *See* Legal Interpretation to James McHenry (May 21, 2015). *drs.faa.gov/browse/excelExternalWindow/FAA000000000LEGALINTPR2015044PDF.0001.*

reasons, the FAA will not adopt this recommendation and will retain existing gold seal flight instructor certificate policy.

One commenter suggested that the FAA address the personal liability associated with flight instruction, which the commenter believes has resulted in flight instructors quitting active flight instruction.

Although the FAA understands this commenter's concern and interest in retaining experienced flight instructors, addressing personal liability is not within the scope of this rulemaking nor the FAA's authority and role. The FAA regulates U.S. civil aviation to promote safety in air commerce.

One commenter recommended that the FAA increase the requirements for a flight instructor to qualify to endorse a student pilot for solo flight.

Currently, a flight instructor with a valid flight instructor certificate may endorse a student pilot for solo flight when the student has met the aeronautical knowledge and pre-solo flight training requirements of § 61.87. The FAA did not intend to change these limitations or establish new requirements for a flight instructor to endorse a student pilot for solo flight as part of this rulemaking. The FAA believes that the requirements of § 61.87, along with the eligibility requirements to obtain a flight instructor certificate, establish an acceptable standard. The FAA will not adopt this recommendation.

One commenter proposed three recommendations to improve a flight instructor's ''ability to teach safety and safely.'' [41] The suggestions included restructuring the Aviation Instructor's Handbook, conducting regular reviews of flight instructors offering flight instruction under part 61, and addressing the issue of designated pilot examiners who conduct a high number of practical tests per year at ''$900 to $1,000 per ride-with what appears to be profit-driven motive.''

The FAA appreciates the feedback on the Aviation Instructor's Handbook. However, this document is not within the purview of this rulemaking and will not be restructured as a result of it. The commenter's recommendation to ''review'' flight instructors providing instruction under part 61 seems to comment on the FAA's flight instructor surveillance policy.[42] The existing part 61 flight instruction oversight policy cannot be revised through this rulemaking. Finally, this rulemaking did not intend changes to designated pilot examiner authorization or oversight, nor can it address the commenter's specific concerns about the cost of practical tests conducted by DPEs. Current FAA policy addresses DPE activities and oversight. Therefore, the FAA will not adopt these recommendations as they fall outside the scope of this rulemaking.

One commenter requested that the FAA reevaluate DPE eligibility standards to address a shortage of DPEs. As discussed, this rulemaking did not intend to change or address DPE policy, and this policy is beyond the scope of this rulemaking.

Two commenters, including SAFE and one individual, recommended the FAA update the WINGS Program's *FAASafety.gov* website. The FAA appreciates this feedback, however changes to the *FAASafety.gov* website is beyond the scope of this rulemaking.

One commenter recommended expansion of ground instructor privileges by allowing them to act as a certifying official on student pilot certificate applications. Additionally, the commenter recommended allowing ground instructors to verify identity and citizenship requirements for pilots seeking flight training in accordance with Transportation Security Administration (TSA) requirements.

Section 61.85(b) establishes the certifying officials who may accept an application for a student pilot certificate. Notably, ground instructors are not included. The FAA did not intend to change ground instructor privileges as part of this rulemaking and believes the existing certifying officials are sufficient to process student pilot certificate applications. The FAA declines to adopt this recommendation. This commenter's additional recommendation to allow ground instructors to verify citizenship to meet TSA requirements found in 49 U.S.C. part 1552 is beyond the scope of this rulemaking.

One commenter recommended that flight instructor eligibility requirements should not require a practical test to obtain a flight instructor certificate. The commenter recommended that only the currently required knowledge tests should be required for the issuance of a flight instructor certificate. The commenter believed that this recommendation would address the perceived difficulty and expense of flight instructor certification.

The FAA notes that the flight instructor practical test ensures that the instructor applicant has the instructional knowledge and skill to meet standards. Removing the practical test requirement would have an adverse impact on safety because it would no longer ensure a flight instructor meets the flight instructor instructional knowledge and skill standards. Additionally, this rulemaking did not contemplate a change to flight instructor eligibility requirements, currently found in § 61.183, or § 61.405 for flight instructors with a sport pilot rating. The FAA will not adopt this recommendation.

One commenter supported proposed rulemaking but recommended ''a 24-month recovery opportunity for instructors who were sidelined due to COVID-related issues.'' The FAA finds that the proposed reinstatement options would allow flight instructors impacted by COVID–19 to reinstate their flight instructor privileges by practical test. The FAA declines to adopt the recommendation for additional relief.

In their comment, AOPA asked how the proposed rule would affect part 141 chief and assistant chief instructors, who are currently required to complete a FIRC every 12 months. The FAA notes that this rulemaking does not change part 141 chief flight instructor or assistant chief flight instructor requirements. In accordance with § 141.79(c), those instructors would need to complete an approved syllabus of training consisting of ground or flight training, or both, or an approved FIRC every 12 months. These instructors may also choose to reestablish recent experience based on completion of this approved FIRC.

[41] Comment from Timothy Heron, Docket No. FAA–2023–0825–0133.

[42] *See* FAA Order 8900.1, Volume 6, Chapter 1, Section 5. *drs.faa.gov/browse/excelExternalWindow/DRSDOCID1843706828202305311 44311.0001.*

One commenter believed that an industry group received an opportunity to comment on the draft proposal prior to publication of the NPRM and other industry groups were excluded. The FAA affirms that no industry groups or individuals were given advance opportunity to review and comment on this rulemaking prior to publication of the NPRM.

One individual recommended extending the comment period. In this case, the commenter recommended that the FAA withdraw this proposal, convene a working group, and consult with the flight training industry to get their input; or at least extend the comment period until after July 2023. To respond to this commenter's request to extend the comment period, the FAA reopened the comment period for an additional thirty (30) days, from November 1, 2023, through December 1, 2023. Under the guidance of Executive Order 13563,[43] which provides that the public must be afforded a meaningful opportunity to comment with a comment period that should generally be at least 60 days, the FAA finds that the additional 30 day comment period provided sufficient opportunity for the public to comment (*i.e.,* a total period of 60 days). Additionally, the FAA found that the APA process of notice and comment was sufficient to gather relevant perspectives and continue the rulemaking process. Therefore, the FAA will neither convene an Aviation Rulemaking Committee nor a working group as part of this rulemaking action.

V. Severability

As discussed in section II. Of this preamble, Congress authorized the FAA by statute to promote safe flight of civil aircraft in air commerce by prescribing, among other things, regulations and minimum standards for practices, methods, and procedures the Administrator finds necessary for safety in air commerce.[44] Consistent with that mandate, the FAA promulgates the regulations described herein to remove the flight instructor certificate expiration date and to substitute the renewal requirement with a recency requirement. However, the FAA recognizes that certain provisions of this final rule make additional unrelated changes to the regulations. Therefore, the FAA finds that the various provisions of this final rule are severable and able to operate functionally if severed from each other. In the event a court were to invalidate one or more of this final rule's unique provisions, the remaining provisions should stand, thus allowing the FAA to proceed with revising flight instructor certificates within its Congressionally authorized role of promoting safe flight of civil aircraft in air commerce.

VI. Regulatory Notices and Analyses

Federal agencies consider impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866, Executive Order 13563, and Executive Order 14094 (''Modernizing Regulatory Review''), direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $183,000,000, using the most current (2023) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this rule.

In conducting these analyses, the FAA has determined that this rule: will result in benefits that justify costs; is not a significant regulatory action as defined under section 3(f)(1) of Executive Order 12866; will not have a significant economic impact on a substantial number of small entities; will not create unnecessary obstacles to the foreign commerce of the United States; and will not impose an unfunded mandate on State, local, or Tribal governments, or on the private sector.

A. Regulatory Evaluation

The FAA will amend part 61 of title 14 of the Code of Federal Regulations by (1) removing the expiration date on the flight instructor certificate; (2) allowing flight instructors whose recent experience has lapsed by no more than three calendar months to reinstate their flight instructor privileges by taking a FIRC; (3) identifying an FAA-sponsored pilot proficiency program (*e.g.,* WINGS–FAA Pilot Proficiency Program) as an additional method for a flight instructor to meet recent experience requirements; (4) revising the qualifications for flight instructors seeking to train initial flight instructor applicants under 14 CFR 61.195(h)(2); and (5) codifying SFAR No. 100–2, with clarifying revisions.

The FAA estimates this rule to result in $5.6 million, discounted over five years, in cost savings to FAA and industry, which includes removing the expiration date on the flight instructor certificate as well as allowing flight instructors whose recent experience has lapsed by no more than three calendar months to reinstate flight instructor privileges by taking a FIRC. These cost savings are driven primarily by the cost savings to industry of removing the expiration date on the flight instructor certificate.

This final rule includes two changes not originally proposed. The first change corrects § 61.197(b)(2)(v) by replacing a requirement for ''15 hours'' to ''15 activities.'' The second change corrects § 61.51(h)(2)(ii) by aligning pilot logbook training time descriptions with the removal of the flight instructor certificate expiration date. The FAA notes that there is no cost impact associated with either of these changes.

None of the comments received resulted in any changes to the FAA assessment of cost savings or costs. For instance, one commenter claimed that the FIEQTP may not be a popular program with parts 141 and 142 flight training centers or CFIs due to the cost and complexity associated with it. According to the commenter, the FAA estimated that it would cost a school an average of over $5,000 in the first year to establish the course. In subsequent years, it would then cost slightly over $2,000 per year in course revisions, approvals, and record keeping expenses. Although the FAA estimated costs for this new training program, the FAA also pointed out that participation in FIEQTP will not be mandatory; instead, it will be one option to become qualified to instruct initial flight instructor applicants. Three commenters contended that the only cost savings from removing the expiration date from

[43] *See www.federalregister.gov/documents/2011/01/21/2011-1385/improving-regulation-and-regulatory-review.*

[44] 49 U.S.C. Subtitle VII, Subpart i of part A, Section 40113, Administrative, and Subpart iii, Section 44701, General Requirements; Section 44702, Issuance of Certificates; Section 44703, Airman Certificates; Section 44704, Type Certificates, Production Certificates, Airworthiness Certificates, and Design and Production Organization Certificates; Section 44705, Air Carrier Operating Certificates; and Section 44707, Examination and Rating of Air Agencies.

flight instructor certificates is to the FAA in the production and mailing of new certificates. In the detailed analysis in the following section, the FAA points out that it also estimated cost savings to industry of approximately $2.7 million present value at a 2 percent discount rate for this provision. Therefore, there have been no changes to this analysis as it was proposed except for updates with more recent data on the number of initial flight instructor certificates, the number of flight instructor certificate renewals, the number of pilot schools and the number of training centers. Additionally, this final rule has been updated from the NPRM to convert to 2024 dollars from 2022 dollars and to add a present value discounted at two percent for cost savings and costs.

1. Removing the Expiration Date on the Flight Instructor Certificate

Currently, a flight instructor certificate expires 24 calendar months from the month in which the FAA issued, renewed, or reinstated that certificate. The FAA will remove the expiration date from the flight instructor certificate, which will eliminate the need to renew that certificate prior to its expiration date by passing a practical test or by submitting a completed and signed application with the FAA and satisfactorily completing one of the currently enumerated renewal requirements. These current renewal requirements will become recent experience requirements. Consequently, the FAA will no longer need to create new physical flight instructor certificates upon each applicant's recent experience cycle after that person receives their permanent certificate without an expiration date.

To estimate the cost savings associated with removing the expiration date from flight instructor certificates, the FAA begins with estimating the baseline number of certificates and associated costs avoided. The FAA estimates that from 2013 to 2023 the number of initial flight instructor certificates grew from 2,348 to 9,280 [45] (*i.e.,* the average annual growth rate from 2013 to 2023 was 14.73 percent). Using this 14.73 percent annual growth rate, the FAA forecasts the initial flight instructor certificates over the next years. Similarly, the FAA estimates that from 2013 to 2023, the number of flight instructor certificate renewals grew from 41,467 to 61,782 [46] (*i.e.,* the average annual growth rate from 2013 to 2023 was 4.07 percent). Using this 4.07 percent annual growth rate, the FAA forecasts the flight instructor certificate renewals over the next years.

The FAA determined the cost of issuing the physical flight instructor certificates by estimating the mean labor cost for the applicants that complete and submit FAA Form 8710 applications.[47] The FAA finds that the variety of people with various pay levels that work on issuing flight instructor certificates are classified using the May 2022 North American Industry Classification System under NAICS code [48] 481200, ''Nonscheduled Air transportation.'' [49] Therefore, the FAA assumes that the mean hourly wage of $47.13 of all occupations is representative of pilots and representative occupations. The FAA then applies the appropriate multipliers for overhead (this includes health benefits, vacation, sick time, etc.). More specifically, the FAA increases the base hourly rate by 42.25 percent, which is based on the percent of total compensation for transportation employees,[50] resulting in a fully burdened wage rate of approximately $67.04 per hour. FAA estimates the time to produce each physical flight instructor certificate is 6 minutes, or 0.1 hours.[51]

Using the preceding information, the FAA estimates that during the first five years, the cost savings to industry will be approximately $2.7 million present value at a 2 percent discount rate, with annualized savings of $573 thousand. The results are presented in Table 1.

TABLE 1—TOTAL INDUSTRY COST SAVINGS

Year	Initial flight instructor (forecast)	Flight instructor renewals (forecast)	Average wage per hour	Time to process each flight instructor (in hours)	Cost savings	Present value at		
						2%	3%	7%
1	10,647	64,295	$67.04	0.1	$502,411	$502,411	$502,411	$502,411
2	12,216	66,910	67.04	0.1	530,461	520,060	515,010	495,758
3	14,015	69,632	67.04	0.1	560,769	538,994	528,579	489,798
4	16,080	72,465	67.04	0.1	593,606	559,368	543,233	484,559
5	18,449	75,412	67.04	0.1	629,244	581,324	559,075	480,047
Total	71,407	348,714				2,702,157	2,648,308	2,452,573

Notes: (i) initial certificates forecast based on historic rate of 14.73 percent per year; (ii) Flight instructor renewal forecast based on historic rate of 4.07 percent per year; and (iii) estimates may not total due to rounding.

Using the initial flight instructor certificates forecast and the flight instructor certificate renewals forecast, the FAA estimates the costs savings to the Federal Government. The FAA determined the cost of issuing physical airman certificates by estimating the mean labor cost for clerks. The FAA estimates the salaries for the clerks based on the 2024 General Schedule Locality Pay Tables using the Rest of the United States locality pay multiplier. The FAA uses 36.25 percent to calculate the overhead benefits multiplier. The total salary, including overhead, is $92,597 ($44.52 per hour). The time to produce each flight instructor certificate is estimated at 0.1 hours.[52] Using this information, the FAA estimates that during the first five years, the FAA cost savings will be approximately $1.8 million present value at a 2 percent discount rate, with annualized savings of $381 thousand. The results are presented in Table 2.

[45] Source: FAA Airman Certification Branch.

[46] Ibid.

[47] This includes FAA Form 8710–1, Airman Certificate and/or Rating Application and Form FAA 8710–11, Airman Certificate and/or Rating application—Sport Pilot.

[48] The NAICS code is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

[49] U.S. Bureau of Labor Statistics, NAICS 481200—Nonscheduled Air Transportation *www.bls.gov/oes/2022/may/naics4_481200.htm.*

[50] Percent of total compensation = 29.7%. Source: Bureau of Labor Statistics News Release. Employer Costs for Employee Compensation—December 2020. *www.bls.gov/news.release/archives/ecec_03182021.htm.*

[51] Source: *www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201809-2120-009.*

[52] Source: *www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201809-2120-009.*

TABLE 2—TOTAL FAA COST SAVINGS

Year	Initial flight instructor (forecast)	Flight instructor renewals (forecast)	Average wage per hour	Time to process each flight instructor (in hours)	Cost savings	Present value at		
						2%	3%	7%
1	10,647	64,295	$44.52	0.1	$333,642	$333,642	$333,642	$333,642
2	12,216	66,910	44.52	0.1	352,269	345,362	342,009	329,223
3	14,015	69,632	44.52	0.1	372,396	357,936	351,019	325,265
4	16,080	72,465	44.52	0.1	394,202	371,466	360,751	321,787
5	18,449	75,412	44.52	0.1	417,869	386,047	371,271	318,790
Total	71,407	348,714				1,794,453	1,758,692	1,628,707

Notes: (i) initial certificates forecast based on historic rate of 14.73 percent per year; (ii) Flight instructor renewal forecast based on historic rate of 4.07 percent per year; and (iii) estimates may not total due to rounding.

2. Flight Instructor Refresher Course

Allowing flight instructors whose recent experience has lapsed by no more than three calendar months to reinstate flight instructor privileges by taking a FIRC will result in cost savings for flight instructors. Under the previous rule, flight instructor applicants typically would incur the costs of taking a practical test. This expenditure generally included the applicant's time for the test-which consisted of oral testing and a flight test (about 2–3 hours flight portion), the cost of a designated examiner to conduct the test,[53] and the aircraft operational or rental costs [54] incurred while taking the test. The estimates provided here are based on a comprehensive review of (1) numerous flight schools throughout the United States, (2) the price designated pilot examiners charge across the country, and (3) the cost of taking FAA approved FIRCs conducted by current providers. This review was conducted by FAA personnel familiar with the training requirements and associated costs. The research conducted during this review indicates that a practical test to reinstate a flight instructor certificate could cost anywhere from about $800 to thousands of dollars when a rental aircraft is used for the practical test. Conversely, the cost of an online FIRC may be provided free of charge or cost as much as $299 for a live classroom FIRC. By averaging these options ($0 and $299), the FAA assumes a cost of $149.50 per hour for the cost of taking a FIRC.

To estimate the cost savings associated with taking a FIRC instead of a practical test, the FAA forecasts that on average 85 flight instructors will reinstate their flight instructor certificate within the first three-month period from the expiration of their certificate.[55] The FAA determined the difference in cost between taking a practical test and taking a FIRC as $2,656.[56] Therefore, the FAA estimates that during the first five years, the cost savings will be approximately $1.1 million present value at a 2 percent discount rate, with annualized savings of $231 thousand. The results are presented in Table 3.

TABLE 3—TOTAL FLIGHT INSTRUCTOR REFRESHER COURSE COST SAVINGS

Year	Flight instructors that will reinstate their flight instructor certificate within first 3 month period from the expiration of their certificate (forecast)	Cost of practical test minus cost of FIRC	Cost savings	Present value at		
				2%	3%	7%
1	85	$2,656	$226,822	$226,822	$226,822	$226,822
2	85	$2,656	$226,822	$222,375	$220,216	$211,984
3	85	2,656	226,822	218,015	213,802	198,115
4	85	2,656	226,822	213,740	207,575	185,155
5	85	2,656	226,822	209,549	201,529	173,042
Total	427			1,090,501	1,069,944	995,118

Note: (i) estimates may not total due to rounding.

The FAA estimates that during the first five years, the combined cost savings (industry + FAA) will be approximately $5.6 million present value at a 2 percent discount rate, with an annualized savings of $1.2 million. The results are presented in Table 4.

[53] Based on the research conducted by the Airmen Certification and Training Branch of Flight Standards Service, this cost can range from about $500 to $1,000. The FAA estimates $750/hour (average of $500 and $1,000) for the cost of a designated pilot examiner to conduct the test.

[54] One of the most popular aircraft, the Cessna 172 airplane, (four seat/single four-cylinder engine) rents from about $120/hour to $220/hour wet (with fuel and oil), depending on its age and equipment. The FAA estimates $170/hour (average of $120 and $220) for the rental cost. Additional cost may include the flight instructor's fee (typically $30–$60 per hour). The FAA estimates $45/hour (average of $30 and $60) for the flight instructor's fee.

[55] Flight Instructors that reinstated their flight instructor certificate within the first three-month period from the expiration of their certificate: 2019 = 92, 2020 = 79, 2021 = 80, 2022 = 96, and 2023 = 70. Source: Federal Aviation Administration Airmen Certification Branch (AFB–720). Average of 92, 79, 80, 96, and 70 = 85. Received data on March 19, 2024. For the NPRM, the FAA only had data points from 2019 to 2021, which were used to calculate the average.

[56] Difference in cost between taking a practical test and taking a FIRC = $2,805 − $149.50 = $2,655.5 Average cost of taking a flight instructor reinstatement practical test: $2,805. Assumptions for the practical test: Airplane, not Helicopter; Airplane rental for training in preparation for the practical test = 6 hours × $170 = $1,020; Prep time for test with flight instructor = 6 hours × $45 = $270 prep time; Airplane rental to and from test = 2 × $170 = $340; Airplane rental for the flight test (2–3 hours = 2.5 hours flight test × $170 = $425; Designated examiner to conduct the test average = $750.

Note: This example reflects the most common practical reinstatement by practical test. However, each individual has different circumstances.

Average cost for taking a FIRC = $149.50 (average of $0 and $299).

TABLE 4—TOTAL COST SAVINGS FOR THE INDUSTRY AND THE FAA

Cost savings	Present value at			Annualized
	2%	3%	7%	2%
Industry	$3,792,659	$3,718,253	$3,447,692	$804,644
FAA	1,794,453	1,758,692	1,628,707	380,708
Total	5,587,111	5,476,944	5,076,398	1,185,353

Note: (i) estimates may not total due to rounding.

3. FAA-Sponsored Pilot Proficiency Programs

This new paragraph will add the FAA-sponsored pilot proficiency programs as a method to establish recent experience under § 61.197(a) and will codify the FAA's current practice of permitting flight instructors to use the WINGS Program to satisfy § 61.197. Codifying FAA-sponsored pilot proficiency programs to allow flight instructors an additional method to establish flight instructor recent experience is essentially an enabling provision for flight instructors, which was triggered by the need to provide a regulatory basis for a policy that has allowed flight instructors to renew their certificate by means of the WINGS program.

4. Revising Flight Instructor Qualifications Under 14 CFR 61.195(h)(2)

Currently, prior to instructing initial flight instructor applicants, a flight instructor must have held their flight instructor certificate for at least 24 calendar months and have given a requisite number of hours of flight training. This Final Rule will create two additional options for a flight instructor to qualify to instruct initial flight instructor applicants. Under the first new option, flight instructors would have the option to qualify by training and endorsing at least five applicants for a practical test for a pilot certificate or rating, with at least 80 percent of those applicants passing the test on their first attempt. As another option, flight instructors may complete an FAA-approved FIEQTP and give a requisite number of hours of flight training. These two new qualification options will allow flight instructors to be eligible to instruct initial flight instructor applicants sooner than 24 calendar months. This provision will provide additional flexibility to instructors and, thus, the FAA finds it will provide a small cost savings.[57]

B. Regulatory Flexibility Act

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

Most of the parties affected by this rule will be small businesses such as flight instructors, aeronautical universities, FAA designated pilot examiners, parts 61 and 141 flight schools, and part 142 training centers. There were 131,577 [58] flight instructors alone in 2023. Therefore, this final rule will affect a substantial number of small entities. However, it does not impose costs net of cost savings. This Final Rule is expected to provide cost savings to industry of about $4 million present value at 2 percent during the first 5 years. If an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, as provided in section 605(b) and based on the foregoing, the head of FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

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

The FAA has assessed the potential effect of this final rule and determined that the rule will have only a domestic impact and, therefore, no effect on international trade.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or Tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. The FAA determined that the final rule will not result in the expenditure of $183,000,000 or more by State, local, or Tribal governments, in the aggregate, or the private sector, in any one year.

[57] Section 61.195(h)(2)(iii) currently requires a flight instructor seeking to instruct an initial flight instructor applicant to have held their flight instructor certificate for at least 24 months.

[58] U.S. Civil Airmen Statistics | Federal Aviation Administration (*faa.gov*).

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there will be a new requirement for information collection associated with this rule for the FIEQTP. The FAA notes that the Office of Management and Budget assigned OMB control number 2120–0816 to this information collection. As required by the Paperwork Reduction Act, the FAA has submitted this information collection request to OMB for its review. The new information collection would be entitled Flight Instructor Enhanced Qualification Training Program (FIEQTP): Preparation and Approval. The following discussion provides details on this information collection requirement.

Summary: Flight instructors seeking to provide flight training to initial flight instructor applicants may complete an approved Flight Instructor Enhanced Qualification Training Program (FIEQTP) that will develop the flight instructor's instructional ability. Participation in this new training program is not mandatory; instead, it is one option to become qualified to instruct initial flight instructor applicants. Any part 141 pilot school or part 142 training center wishing to offer the new training program is required to submit the curriculum to the FAA for approval.

Use: The information collected for the FIEQTP will ensure flight instructors seeking to provide flight training to initial flight instructor applicants are adequately trained in the knowledge and skills of the intricacies of providing flight training to initial flight instructor applicants. The requirement to submit the FIEQTP curriculum to the FAA for approval ensures that the FIEQTP meets the regulatory requirements of such program and provides greater oversight of the training programs to ensure consistency of both course and instructional quality among pilot schools and training centers.

Burden Estimate: As of May 2024, FAA records show 539 active part 141 pilot schools and 50 active part 142 training centers.[59] The FAA estimates that 25 percent of these pilot schools and training centers would take advantage of the provision in this rule that would trigger an estimated 147 responses to this new information collection for § 61.195(h)(3). Therefore, in the first year, the FAA estimates that about 134.75 pilot schools and 12.50 training centers would submit a training program for approval for a total of 147 respondents in the first year. Further, the FAA estimates that the development of each FIEQTP will take approximately 80 hours and that the task would be performed by the pilot school's or training center's chief flight instructor. The Bureau of Labor Statistics estimates that the mean annual salary for a chief flight instructor is $90,330, from which the FAA estimates an average wage of $43.43 per hour.[60] This wage was obtained using the North American Industry Classification System (NAICS) industry code 611500; occupation code 53–2010 designate for aircraft pilots and flight engineers. This wage estimate was derived by dividing $90,330 by 2,080 hours (assuming a 40-hour work week for 52 weeks), which is $43.43 per hour. Next, a fringe benefit multiplier 1.42 was included. This results in an annual salary of $128,128 and hourly wage of $61.60.[61]

TABLE 5—INDUSTRY SALARY INCLUDING OVERHEAD

Job category	Annual wage	Multiplier	Total	Hourly wage
Chief Flight Instructor	[1] $90,330	[2] 1.42	$128,128	[3] $61.60

Sources:
[1] NAICS Code 611500; occupation code 53–2010. Technical and Trade Schools—May 2022 OEWS Industry-Specific Occupational Employment and Wage Estimates (*bls.gov*).
[2] Overhead benefit percent of total compensation = 29.5%. June 2022. *https://www.bls.gov/bls/news-release/ecec.htm.*
[3] Using 2,080 working hours in one year.

This would result in a first-year burden of about 11,780 hours and about $725,648 ((134.75 pilot schools +12.50 training centers) × 80 hours × $61.60) for affected pilot schools and training centers to prepare and submit new training programs. For subsequent years, the FAA assumes a growth rate of one percent for both pilot schools and training centers. The FAA estimates that 25 percent of those institutions would submit FIEQTP to the FAA for revisions, resulting in approximately 1.47 new respondents and an additional burden of about 118 hours and $7,256 in subsequent years. The FAA also estimates that each year at least 50 percent of the pilot schools and training centers that provide the FIEQTP curriculum would require at least one revision to address any updates or deficiencies identified by the FAA, pilot school, or training center. As a result, the FAA estimates the total annual burden to pilot schools and training centers of submissions, including growth and revisions, at 4,749 hours and $292,553.

The FAA reviewed the number of initial flight instructors certificated in the previous three years, which was reported as: 2023 (11,337), 2022 (8,364), and 2021 (7,759) equaling a total of 27,460 newly certificated flight instructors.[62] Using the most recent year of these newly certificated flight instructors, the FAA estimates 11,337 student records would be generated in the first year. The FAA further assumes that 25 percent of the students would enroll in a FIEQTP regardless of other alternatives. The FAA, therefore, estimates that 2,834 students[63] would enroll in a FIEQTP in the first year. The FAA further estimates that the student population growth rate would be 0.6 percent.[64] In addition, the FAA estimates each record would require five minutes of processing time and that recordkeeping functions would be the responsibility of the chief flight

[59] The FAA obtained a list of active part 141 pilot schools and a list of active part 142 training centers from its internal record system, WebOPSS, on March 18, 2024.

[60] The code was determined to be the appropriate code as the NAICS code for training and development specialists' states ''flight instructors are included with ''Aircraft Pilots and Flight Engineers'' (53–2010)''. Source: Technical and Trade Schools—May 2022 OEWS Industry-Specific Occupational Employment and Wage Estimates (*bls.gov*).

[61] Percent of total compensation = 29.5%. Source: Bureau of Labor Statistics News Release. Employer Costs for Employee Compensation—March 2022. Employer Costs for Employee Compensation Archived News Releases: U.S. Bureau of Labor Statistics (*bls.gov*).

[62] The number of initial flight instructors are from U.S. Civil Airmen Statistics | Federal Aviation Administration (*faa.gov*); March 18, 2024.

[63] 11,337 × 25% = 2,834 students.

[64] Source: FAA Airman Certification Branch.

instructor. This would result in an annual recordkeeping burden of 79 hours and $4,888.

The annual industry burden and cost of this information requirement for plan submission and revision and student recordkeeping is about 4,829 hours and $297,441.

TABLE 6—INDUSTRY FIEQTP DEVELOPMENT AND REVISION BURDEN AND COSTS

[Information used for estimates]

Category	Element	Estimate
Pilot Schools	Number of pilot schools	539
	Portion of pilot schools affected	25%
	Number of pilot schools affected	(539 × 0.25 =) 134.75
	Growth rate of pilot schools	1%
Training Centers	Number of training centers	50
	Portion of training centers affected	25%
	Number of training centers affected	(50 × 0.25 =) 12.50
	Growth rate of training centers	1%
FIEQTP	Time needed to develop and submit original	80 hours
	Time for revisions	10 hours
	Percent revisions per year	50%[65]
Wage Rate	Chief flight instructor	$61.60

The FAA estimates the annual burden and cost to the Federal Government for the review and authorization of the FIEQTP would be 2,809 hours and $251,924. This burden and cost was determined by estimating the time required for FAA personnel to review FIEQTP curriculums and authorize an applicant's program through the issuance of an approval letter. The FAA estimates FAA aviation safety inspectors (ASIs) would spend 40 hours on each review and 10 hours on each revision. Additionally, FAA clerks would spend 30 minutes on issuance of an approval letter. The FAA estimates the salaries for the ASIs and clerks based on the 2024 General Schedule Locality Pay Tables using the Rest of the United States locality pay multiplier. The FAA uses 36.25 percent to calculate the overhead benefits multiplier. The total salary, including overhead, is $188,696 ($90.72 per hour) for ASIs and $92,597 ($44.52 per hour) for clerks. The analysis uses the same number of responses estimated for industry FIEQTP submission and revision to estimate the burden and cost to the FAA of reviews and approvals.

TABLE 7—FAA SALARIES INCLUDING OVERHEAD

Job category	Aviation safety inspector	Clerk
Grade and Step	GS–14 Step 5	GS–9 Step 5.
Annual Base Salary	$118,552[1]	$58,176.[1]
Locality Multiplier	1.1682[2]	1.1682.[2]
Salary Adjusted by Locality Pay	$138,492	$67,961.
Overhead Benefit Multiplier	1.3625[3]	1.3625.[3]
Salary including Overhead	$188,696	$92,597.
Hourly Wage	$90.72[4]	$44.52.[4]

Sources:
[1] 2024 General Schedule Pay. *https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2024/GS.pdf.*
[2] FAA locality rate for the Rest of the United States.
[3] *https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/memoranda/2008/m08-13.pdf.*
[4] Using 2,080 working hours in one year.

The combined (industry + FAA) annual burden and cost is 7,637 hours and $549,365. The following provides additional detail of response, burden, and cost estimates to industry and the FAA (some estimates may not exactly total due to rounding).

TABLE 8—ANNUAL BURDEN AND COSTS FOR THE INDUSTRY AND THE FAA

Category	Total responses	Hours per response	Burden hours				
			Reporting	Recordkeeping	Disclosure	Total	Cost
Industry: 61.195(h)(3):							
Development Cost—Pilot Schools	45.82	80	3,666			3,666	$225,798
Development Cost—Training Centers	4.25	80	340			340	20,946
Cost—Revisions	74.36	10	744			744	45,808
Industry Recordkeeping Costs	956.12	0.083		79		79	4,888

[65] Estimated as 50% of the total affected pilot schools and training centers per year adjusted for growth.

TABLE 8—ANNUAL BURDEN AND COSTS FOR THE INDUSTRY AND THE FAA—Continued

Category	Total responses	Hours per response	Burden hours				
			Reporting	Recordkeeping	Disclosure	Total	Cost
Total Industry Costs for 61.195(h)(3)			4,749	79	0	4,829	297,441
FAA: 61.195(h)(3):							
Review cost of FIEQTP curriculums	50.07	40	2,003			2,003	181,692
Revision cost of FIEQTP curriculums	74.36	10	744			744	67,462
Cost of issuing approval letter	124.43	0.5	62			62	2,770
Total FAA Costs for 61.195(h)(3)			2,809	0	0	2,809	251,924
Total Industry and FAA Costs for 61.195(h)(3)			7,558	79	0	7,637	549,365

Details may not add to row or column totals due to rounding.

Finally, § 61.195(h)(3)(vii) will require part 141 pilot schools and part 142 training centers to issue a graduation certificate to each flight instructor who successfully completes the FIEQTP. While part 141 already requires pilot schools to issue a graduation certificate to each student who completes an approved course of training,[66] this will be a new requirement for part 142 training centers, and only required for training centers in the context of FIEQTPs. The FAA does not know how many part 141 pilot schools or how many part 142 training centers will choose to provide the FIEQTP course. Additionally, the FAA does not know how many flight instructors will seek to attend this course at a part 141 pilot school, which is already required to issue a graduation certificate; or how many flight instructors will seek to attend this course at a part 142 training center, which are not currently required to issue graduation certificates. Therefore, the FAA is unable to quantify the costs to provide a graduation certificate.

F. International Compatibility

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

G. Environmental Analysis

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

VII. Executive Order Determinations

A. Executive Order 13132, Federalism

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

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

Consistent with Executive Order 13175, Consultation and Coordination with Indian Tribal Governments,[67] and FAA Order 1210.20, American Indian and Alaska Native Tribal Consultation Policy and Procedures,[68] the FAA ensures that Federally Recognized Tribes (Tribes) are given the opportunity to provide meaningful and timely input regarding proposed Federal actions that have the potential to have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes; or to affect uniquely or significantly their respective Tribes. At this point, the FAA has not identified any unique or significant effects, environmental or otherwise, on Tribes resulting from this final rule.

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

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

D. Executive Order 13609, Promoting International Regulatory Cooperation

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

VIII. Additional Information

A. Electronic Access and Filing

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

[66] *See* § 141.95.

[67] 65 FR 67249 (Nov. 6, 2000).

[68] FAA Order No. 1210.20 (Jan. 28, 2004), available at *www.faa.gov/documentLibrary/media/1210.pdf.*

may also be found at the FAA's Regulations and Policies website at *www.faa.gov/regulations_policies.*

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

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

B. Small Business Regulatory Enforcement Fairness Act

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

List of Subjects

14 CFR Part 11

Administrative practice and procedure, Reporting and recordkeeping requirements.

14 CFR Part 61

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Teachers.

14 CFR Part 63

Aircraft, Airman, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 65

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 141

Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools.

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

PART 11–GENERAL RULEMAKING PROCEDURES

■ 1. The authority citation for part 11 continues to read as follows:

Authority: 49 U.S.C. 106(f), 40101, 40103, 40105, 40109, 40113, 44110, 44502, 44701–44702, 44711, 46102, and 51 U.S.C. 50901–50923.

■ 2. Amend § 11.201 in the table in paragraph (b) by revising the entry for part 61 to read as follows:

§ 11.201 Office of Management and Budget (OMB) control numbers assigned under the Paperwork Reduction Act.

* * * * *

(b) * * *

14 CFR part or section identified and described	Current OMB control number
* * * * * * *	
Part 61	2120–0021, 2120–0034, 2120–0543, 2120–0571, 2120–0816
* * * * * * *	

PART 61–CERTIFICATION: PILOTS, FLIGHT INSTRUCTORS, AND GROUND INSTRUCTORS

■ 3. The authority citation for part 61 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701–44703, 44707, 44709–44711, 44729, 44903, 45102–45103, 45301–45302; Sec. 2307, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); sec. 318, Pub. L. 115–254, 132 Stat. 3186 (49 U.S.C. 44703 note); and Sec. 820, Pub. L. 118–63, 138 Stat. 1330 (49 U.S.C. 44939 note).

Special Federal Aviation Regulation No. 100–2 [Removed]

■ 4. Remove Special Federal Aviation Regulation No. 100–2 from part 61.

■ 5. Amend § 61.2 by revising paragraphs (b)(1) and (2) to read as follows:

§ 61.2 Exercise of Privilege.

(b) * * *

(1) Exercise privileges of an airman certificate, rating, endorsement, or authorization issued under this part unless that person meets the appropriate airman recent experience and medical requirements of this part, specific to the operation or activity.

(2) Exercise privileges of a foreign pilot license within the United States to conduct an operation described in § 61.3(b), unless that person meets the appropriate airman recent experience and medical requirements of the country that issued the license, specific to the operation.

■ 6. Amend § 61.19 by revising paragraphs (a)(2), (c)(1), (d) and (e) to read as follows:

§ 61.19 Duration of pilot and instructor certificates and privileges.

(a) * * *

(2) Except for a certificate issued with an expiration date, a certificate issued under this part is valid unless it is surrendered, suspended, or revoked.

(c) * * *

(1) A pilot certificate (including a student pilot certificate issued after April 1, 2016) issued under this part is issued without an expiration date.

(d) *Flight instructor certificate.* (1) A flight instructor certificate issued under this part on or after December 1, 2024, is issued without an expiration date.

(2) A flight instructor certificate issued before December 1, 2024, expires 24 calendar months from the month in which it was issued, renewed, or reinstated, as appropriate.

(e) *Ground instructor certificate.* A ground instructor certificate is issued without an expiration date.

* * * * *

■ 7. Amend § 61.39 by:

■ a. Revising paragraphs (a) introductory text, (b) introductory text, (b)(3), (c) introductory text, and (c)(2);

■ b. Redesignating paragraphs (e) through (g) as paragraphs (f) through (h); and

■ c. Adding new paragraph (e).

The revisions and addition read as follows:

§ 61.39 Prerequisites for practical tests.

(a) Except as provided in paragraphs (b), (c), (e), and (f) of this section, to be eligible for a practical test for a certificate or rating issued under this part, an applicant must:

* * * * *

(b) Except as provided in paragraph (e) of this section, an applicant for an airline transport pilot certificate with an airplane category multiengine class rating or an airline transport pilot certificate obtained concurrently with a multiengine airplane type rating may

take the practical test with an expired knowledge test only if the applicant passed the knowledge test after July 31, 2014, and is employed:

* * * * *

(3) By the U.S. Armed Forces as a flightcrew member in U.S. military air transport operations at the time of the practical test and has satisfactorily completed the pilot in command aircraft qualification training program that is appropriate to the pilot certificate and rating sought.

(c) Except as provided in paragraph (e) of this section, an applicant for an airline transport pilot certificate with a rating other than those ratings set forth in paragraph (b) of this section may take the practical test for that certificate or rating with an expired knowledge test report, provided that the applicant is employed:

* * * * *

(2) By the U.S. Armed Forces as a flightcrew member in U.S. military air transport operations at the time of the practical test and has satisfactorily completed the pilot in command aircraft qualification training program that is appropriate to the pilot certificate and rating sought.

* * * * *

(e) An applicant for an airman certificate or rating issued under this part 61 may take a practical test with an expired knowledge test if the applicant meets the requirements specified in § 61.40.

* * * * *

■ 8. Add § 61.40 to read as follows:

§ 61.40 Relief for U.S. Military and civilian personnel who are assigned outside the United States in support of U.S. Armed Forces operations.

(a) *Relief.* A person who satisfies the requirements of paragraph (b) of this section may use the following documents to demonstrate eligibility to renew a flight instructor certificate, establish recent flight instructor experience, take a practical test, or renew an inspection authorization, as appropriate:

(1) For flight instructor certificates issued before December 1, 2024, an expired flight instructor certificate to show eligibility for renewal of a flight instructor certificate under § 61.197;

(2) Except as provided in paragraph (a)(3) of this section, for flight instructor certificates issued after December 1, 2024, a record demonstrating the last recent experience event accomplished under § 61.197 to show eligibility to reestablish recent experience under § 61.197;

(3) For persons who were issued a flight instructor certificate after December 1, 2024, and who served in a U.S. military or civilian capacity outside the United States in support of a U.S. Armed Forces operation for some period of time during the 24 calendar months following the issuance of the person's flight instructor certificate, a flight instructor certificate demonstrating the date of issuance to show eligibility to establish recent experience under § 61.197;

(4) An expired written test report to show eligibility under this part to take a practical test;

(5) An expired written test report to show eligibility to take a practical test required under part 63 of this chapter; and

(6) An expired written test report to show eligibility to take a practical test required under part 65 of this chapter or an expired inspection authorization to show eligibility for renewal under § 65.93.

(b) *Eligibility.* A person is eligible for the relief specified in paragraph (a) of this section if that person meets the following requirements:

(1) The person must have served in a U.S. military or civilian capacity outside the United States in support of a U.S. Armed Forces operation during some period of time beginning on or after September 11, 2001;

(2) One of the following occurred while the person served in an operation as set forth in paragraph (b)(1) of this section or within 6 calendar months after returning to the United States—

(i) The person's flight instructor certificate issued before December 1, 2024, airman written test report, or inspection authorization expired; or

(ii) For flight instructor certificates issued after December 1, 2024, the person has not met the flight instructor recent experience requirements within the preceding 24 calendar months in accordance with § 61.197; and

(3) The person complies with § 61.197 or § 65.93 of this chapter, as appropriate, or completes the appropriate practical test within 6 calendar months after returning to the United States.

(c) *Required documents.* To exercise the relief specified in paragraph (a) of this section, a person must complete and sign an application appropriate to the relief sought and send the application to the appropriate Flight Standards office. The person must include with the application one of the following documents, which must show the date of assignment outside the United States and the date of return to the United States:

(1) An official U.S. Government notification of personnel action, or equivalent document, showing the person was a civilian on official duty for the U.S. Government outside the United States and was assigned to a U.S. Armed Forces operation some time on or after September 11, 2001;

(2) Military orders validating the person was assigned to duty outside the United States and was assigned to a U.S. Armed Forces operation some time on or after September 11, 2001; or

(3) A letter from the person's military commander or civilian supervisor providing the dates during which the person served outside the United States and was assigned to a U.S. Armed Forces operation some time on or after September 11, 2001.

■ 9. Amend § 61.51 by revising paragraph (h)(2)(ii) to read as follows:

§ 61.51 Pilot logbooks.

* * * * *

(h) * * *

(2) * * *

(ii) Include a description of the training given, the length of the training lesson, and the authorized instructor's signature, certificate number, and certificate expiration date or recent experience end date, consistent with the requirements of § 61.197.

* * * * *

■ 10. Effective March 1, 2027, amend § 61.51 by revising paragraph (h)(2)(ii) to read as follows:

§ 61.51 Pilot logbooks.

* * * * *

(h) * * *

(2) * * *

(ii) Include a description of the training given, the length of the training lesson, and the authorized instructor's signature, certificate number, and recent experience end date.

* * * * *

■ 11. Amend § 61.56 by revising paragraphs (d)(2), (e), and (f) to read as follows:

§ 61.56 Flight review.

* * * * *

(d) * * *

(2) A practical test conducted by an examiner for one of the following:

(i) The issuance of a flight instructor certificate,

(ii) An additional rating on a flight instructor certificate,

(iii) To meet the recent experience requirements for a flight instructor certificate in accordance with § 61.197(b)(1); or

(iv) The reinstatement of flight instructor privileges in accordance with § 61.199(b)(2).

(e) A person who has, within the period specified in paragraph (c) of this

section, satisfactorily accomplished one or more phases of an FAA-sponsored pilot proficiency program need not accomplish the flight review required by this section.

(f) A person who holds a flight instructor certificate need not accomplish the one hour of ground training specified in paragraph (a) of this section if that person has, within the period specified in paragraph (c) of this section, met one of the following requirements—

(1) Satisfactorily completed the recent experience requirements for a flight instructor certificate under § 61.197; or

(2) Reinstated the person's flight instructor privileges by satisfactorily completing an approved flight instructor refresher course in accordance with § 61.199(a)(1).

* * * * *

■ 12. Amend § 61.195 by revising paragraph (h) to read as follows:

§ 61.195 Flight instructor limitations and qualifications.

* * * * *

(h) *Qualifications to provide ground or flight training to initial flight instructor applicants*—(1) *Ground training.* The ground training provided to an initial applicant for a flight instructor certificate must be given by an authorized instructor who—

(i) Holds a ground or flight instructor certificate with the appropriate rating, has held that certificate for at least 24 calendar months, and has given at least 40 hours of ground training; or

(ii) Holds a ground or flight instructor certificate with the appropriate rating, and has given at least 100 hours of ground training in an FAA-approved course.

(2) *Flight training.* A flight instructor who provides flight training to an initial applicant for a flight instructor certificate must meet the eligibility requirements prescribed in § 61.183; hold the appropriate flight instructor certificate and rating; meet the requirements of the part under which the flight training is provided; and meet one of the following requirements—

(i) Have held a flight instructor certificate for at least 24 calendar months; and

(A) For training in preparation for an airplane, rotorcraft, or powered-lift rating, have given at least 200 hours of flight training as a flight instructor; or

(B) For training in preparation for a glider rating, have given at least 80 hours of flight training as a flight instructor;

(ii) Have trained and endorsed, during the preceding 24 calendar months, at least five applicants for a practical test for a pilot certificate or rating, and at least 80 percent of all applicants endorsed in that period passed that test on their first attempt; or

(iii) After completing the flight training requirements in paragraph (h)(2)(i)(A) or (B) of this section, as appropriate, have graduated from an FAA-approved flight instructor enhanced qualification training program that satisfies the requirements specified in paragraph (h)(3) of this section.

(3) *Flight instructor enhanced qualification training program.* A flight instructor enhanced qualification training program must be approved and conducted under part 141 or 142 of this chapter, and meet the following requirements-

(i) The ground training must include at least 25 hours of instruction that includes the following subjects:

(A) Flight instructor responsibilities, functions, lesson planning, and risk management, including how to instruct an initial flight instructor applicant on these subjects.

(B) Teaching methods, procedures, and techniques applicable to instructing an initial flight instructor applicant.

(C) Methods of proper evaluation of an initial flight instructor applicant to detect improper and insufficient transfer of instructional knowledge, training, and performance of the initial flight instructor applicant.

(D) Corrective action in the case of unsatisfactory training progress.

(ii) The flight training must include at least 10 hours of training that includes the following areas:

(A) Scenario-based training to develop the flight instructor's ability to instruct an initial flight instructor applicant how to satisfactorily perform the procedures and maneuvers while giving effective flight training.

(B) Instructional knowledge and proficiency to teach an initial flight instructor applicant in abnormal and emergency procedures, which must include stall awareness, spin entry, spins, and spin recovery procedures, if applicable to the category and class of aircraft used in the flight instructor enhanced qualification training program.

(C) Risk management and potential results of improper, untimely, or non-execution of safety measures critical to flight training.

(D) Methods of proper evaluation of an initial flight instructor applicant to detect improper and insufficient transfer of instructional knowledge, training, and performance of the initial flight instructor applicant.

(E) Corrective action in the case of unsatisfactory training progress.

(F) Methods to detect personal characteristics of an initial flight instructor applicant that could adversely affect safety.

(iii) Each flight instructor enrolled in the flight instructor enhanced qualification training program must satisfactorily complete an end-of-course written test specific to the ground training subjects in paragraph (h)(3)(i) of this section and an end-of-course instructional proficiency flight test specific to the flight training areas in paragraph (h)(3)(ii) of this section.

(iv) A full flight simulator or flight training device may be used to meet the flight training requirements of paragraph (h)(3)(ii) of this section. The FFS or FTD must be—

(A) Qualified and maintained in accordance with part 60 of this chapter, or a previously qualified device as permitted in accordance with § 60.17 of this chapter;

(B) Approved by the Administrator pursuant to § 61.4(a); and

(C) Used in accordance with the part under which the FAA-approved course is conducted.

(v) A maximum of 5 hours of training received in an advanced aviation training device may be used to meet the flight training requirements of paragraph (h)(3)(ii) of this section for part 141 flight instructor enhanced qualification training programs. The advanced aviation training device must be-

(A) Approved by the Administrator pursuant to § 61.4(c); and

(B) Used in accordance with part 141 of this chapter.

(vi) No certificate holder may use a person, nor may any person serve, as an instructor of the flight instructor enhanced qualification training program unless the instructor holds a flight instructor certificate or ground instructor certificate and meets one of the following qualifications:

(A) Serves as a chief instructor or assistant chief instructor in a part 141 pilot school;

(B) Serves as a training center program manager or assistant training center program manager of a part 142 training center; or

(C) Meets the qualifications of an assistant chief instructor, pursuant to § 141.36(d).

(vii) A part 141 pilot school or part 142 training center must issue a graduation certificate to each flight instructor who successfully completes the flight instructor enhanced qualification training program.

■ 13. Revise § 61.197 to read as follows:

§ 61.197 Recent experience requirements for flight instructor certification.

(a) A person may exercise the privileges of the person's flight instructor certificate only if, within the preceding 24 calendar months, that person has satisfied one of the recent experience requirements specified in paragraph (b) of this section. The 24 calendar month period during which the flight instructor must establish recent experience shall start from one of the following—

(1) The month the FAA issued the flight instructor certificate;

(2) The month the recent experience requirements of paragraph (b) of this section are accomplished; or

(3) The last month of the flight instructor's current recent experience period provided the recent experience requirements of paragraph (b) of this section are accomplished within the 3 calendar months preceding the last month of the certificate holder's current recent experience period.

(b) A person who holds a flight instructor certificate may establish recent experience by satisfying one of the following requirements—

(1) Passing a practical test for—

(i) One of the ratings listed on the flight instructor certificate; or

(ii) An additional flight instructor rating; or

(2) Satisfactorily completing one of the following recent experience requirements, and submitting documentation of such in a form and manner acceptable to the Administrator—

(i) During the preceding 24 calendar months, the flight instructor has endorsed at least 5 applicants for a practical test for a certificate or rating and at least 80 percent of all applicants endorsed passed that test on the first attempt.

(ii) Within the preceding 24 calendar months, the flight instructor has served as a company check pilot, chief flight instructor, company check airman, or flight instructor in a part 121 or 135 operation, or in a position involving the regular evaluation of pilots.

(iii) Within the preceding 3 calendar months, the person has successfully completed an approved flight instructor refresher course consisting of ground training or flight training, or a combination of both.

(iv) Within the preceding 24 calendar months from the month of application, the flight instructor passed an official U.S. Armed Forces military instructor pilot or pilot examiner proficiency check in an aircraft for which the military instructor already holds a rating or in an aircraft for an additional rating.

(v) Within the preceding 24 calendar months from the month of application, the flight instructor has served as a flight instructor in an FAA-sponsored pilot proficiency program, provided the flight instructor meets the following requirements—

(A) Holds a flight instructor certificate and meets the appropriate flight instructor recent experience requirements of this part;

(B) Has satisfactorily completed at least one phase of an FAA-sponsored pilot proficiency program in the preceding 12 calendar months; and

(C) Has conducted at least 15 flight activities recognized under the FAA-sponsored pilot proficiency program, during which the flight instructor evaluated at least 5 different pilots and has made the necessary endorsements in the logbooks of each pilot for each activity.

(c) Except as provided in paragraph (f) of this section, a person who fails to establish recent experience in accordance with paragraph (b) of this section during the 24 calendar month period specified in paragraph (a) of this section may not exercise flight instructor privileges until those privileges are reinstated in accordance with § 61.199.

(d) The practical test required by paragraph (b)(1) of this section may be accomplished in a full flight simulator or flight training device if the test is accomplished pursuant to an approved course conducted by a training center certificated under part 142 of this chapter.

(e) A person who holds an unexpired flight instructor certificate issued before December 1, 2024, may renew that certificate by establishing recent experience in accordance with paragraph (b) of this section prior to the month of expiration on that person's flight instructor certificate. Except as provided in § 61.40, if that person fails to establish recent experience prior to the expiration of that person's flight instructor certificate, that person may not exercise flight instructor privileges until those privileges are reinstated in accordance with § 61.199.

(f) A person who qualifies for the relief prescribed in § 61.40 may establish recent experience in accordance with paragraph (b) of this section, provided the requirements of § 61.40 are met.

■ 14. Amend § 61.199 by revising the section heading and paragraph (a), and removing paragraphs (c) and (d). The revisions read as follows:

§ 61.199 Reinstatement of flight instructor privileges.

(a) *Flight instructor privileges.* The holder of a flight instructor certificate who has not complied with the flight instructor recent experience requirements of § 61.197 may reinstate their flight instructor privileges by filing a completed and signed application with the FAA and satisfactorily completing one of the following reinstatement requirements:

(1) If 3 calendar months or less have passed since the last month of the flight instructor's recent experience period, the flight instructor may successfully complete an approved flight instructor refresher course consisting of ground training or flight training, or a combination of both, or satisfy one of the requirements specified in paragraph (a)(2) of this section.

(2) If more than 3 calendar months have passed since the last month of the flight instructor's recent experience period, the flight instructor must satisfactorily complete one of the following:

(i) A flight instructor certification practical test, as prescribed by § 61.183(h), for one of the ratings held on the flight instructor certificate; or

(ii) A flight instructor certification practical test for an additional rating.

(3) For military instructor pilots and pilot examiners, provide a record showing that, within the preceding 6 calendar months from the date of application for reinstatement, the person—

(i) Passed a U.S. Armed Forces instructor pilot or pilot examiner proficiency check; or

(ii) Completed a U.S. Armed Forces instructor pilot or pilot examiner training course and received an additional aircraft qualification as a military instructor pilot or pilot examiner that is appropriate to the flight instructor rating sought.

* * * * *

■ 15. Revise § 61.215 by adding paragraph (e) to read as follows:

§ 61.215 Ground instructor privileges.

* * * * *

(e) Ground training provided to an initial applicant for a flight instructor certificate may only be provided by an authorized instructor in accordance with § 61.195(h)(1).

■ 16. Revise § 61.425 to read as follows:

§ 61.425 How do I establish recent experience for my flight instructor certificate with a sport pilot rating?

(a) If you hold a flight instructor certificate with a sport pilot rating issued after December 1, 2024, you must

establish recent experience in accordance with § 61.197.

(b) If you hold an unexpired flight instructor certificate with a sport pilot rating issued before December 1, 2024, you must renew your certificate by establishing recent experience in accordance with § 61.197 prior to the month of expiration on your flight instructor certificate. If you fail to establish recent experience prior to the expiration of your flight instructor certificate, you may not exercise flight instructor privileges until you reinstate those privileges in accordance with § 61.427.

■ 17. Revise § 61.427 to read as follows:

§ 61.427 How do I reinstate my flight instructor privileges if I fail to establish recent experience for my flight instructor certificate with a sport pilot rating?

If you fail to establish recent experience for your flight instructor certificate with a sport pilot rating, you must reinstate your flight instructor privileges by satisfactorily completing one of the following reinstatement requirements:

(a) If 3 calendar months or less have passed since the last month of your recent experience period, you must successfully complete an approved flight instructor refresher course consisting of ground training or flight training, or a combination of both, or satisfy the requirements specified in paragraph (b) of this section.

(b) If more than 3 calendar months have passed since the last month of the flight instructor's recent experience period, you must pass a practical test as prescribed in § 61.405(b) or § 61.183(h) for one of the ratings listed on your flight instructor certificate with a sport pilot rating. The FAA will reinstate any privilege authorized by that flight instructor certificate with a sport pilot rating.

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

■ 18. The authority citation for part 63 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 19. Amend § 63.35 by revising paragraphs (c), (d)(1)(iii) and (d)(2), and adding paragraph (d)(3) to read as follows:

§ 63.35 Knowledge requirements.

* * * * *

(c) Before taking the written tests prescribed in paragraphs (a) and (b) of this section, an applicant for a flight engineer certificate must present satisfactory evidence of having completed one of the experience requirements of § 63.37. However, the applicant may take the written tests before acquiring the flight training required by § 63.37.

(d) * * *

(1) * * *

(iii) Meets the recurrent training requirements of the applicable part or, for mechanics, meets the recency of experience requirements of part 65 of this chapter;

(2) Within the period ending 24 calendar months after the month in which the applicant passed the written test, the applicant participated in a flight engineer or maintenance training program of a U.S. scheduled military air transportation service and is currently participating in that program; or

(3) An applicant is eligible to take a practical test for a flight engineer certificate or rating under this part with an expired written test report in accordance with § 61.40 of this chapter.

* * * * *

■ 20. Amend § 63.53 by revising paragraph (b), and adding paragraph (c) to read as follows:

§ 63.53 Knowledge requirements.

* * * * *

(b) A report of the test is mailed to the applicant. Except as provided in paragraph (c) of this section, a passing grade is evidence, for a period of 24 calendar months after the test, that the applicant has complied with this section.

(c) An applicant is eligible to take a practical test for a flight navigator certificate under this part with an expired written test report in accordance with § 61.40 of this chapter.

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

■ 21. The authority citation for part 65 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

■ 22. Amend § 65.55 by revising paragraph (b), and adding paragraph (c) to read as follows:

§ 65.55 Knowledge requirements.

* * * * *

(b) Except as provided in paragraph (c) of this section, the applicant must present documentary evidence satisfactory to the Administrator of having passed an aircraft dispatcher knowledge test within the preceding 24 calendar months.

(c) An applicant is eligible to take a practical test for an aircraft dispatcher certificate under this part with an expired written test report in accordance with § 61.40 of this chapter.

■ 23. Amend § 65.71 by revising paragraphs (a)(4) and (b) to read as follows:

§ 65.71 Eligibility requirements: General.

(a) * * *

(4) Comply with the sections of this subpart that apply to the rating the applicant seeks.

(b) A certificated mechanic who applies for an additional rating must meet the requirements of § 65.77 and, within a period of 24 calendar months, pass the tests prescribed by §§ 65.75 and 65.79 for the additional rating sought, except as provided in § 65.75(d).

■ 24. Amend § 65.75 by adding paragraph (d) to read as follows:

§ 65.75 Knowledge requirements.

* * * * *

(d) An applicant is eligible to take a practical test for a mechanic certificate or rating under this part with an expired written test report in accordance with § 61.40 of this chapter.

■ 25. Amend § 65.93 by revising paragraph (a) introductory text, and adding paragraph (d) to read as follows:

§ 65.93 Inspection authorization: Renewal.

(a) Except as provided in paragraph (d) of this section, to be eligible for renewal of an inspection authorization for a 2-year period an applicant must present evidence during the month of March of each odd-numbered year, at the responsible Flight Standards office, that the applicant still meets the requirements of § 65.91(c)(1) through (4). In addition, during the time the applicant held the inspection authorization, the applicant must show completion of one of the activities in paragraphs (a)(1) through (5) of this section by March 31 of the first year of the 2-year inspection authorization period, and completion of one of the five activities during the second year of the 2-year period:

* * * * *

(d) A person who qualifies for the relief prescribed in § 61.40 of this chapter is eligible to renew an expired inspection authorization under this section, provided the requirements of § 61.40 of this chapter are met.

PART 141—PILOT SCHOOLS

■ 26. The authority citation for part 141 is revised to read as follows:

Authority: 49 U.S.C. 106(f), 40113, 44701–44703, 44707, 44709, 44711, 45102–45103, 45301–45302.

■ 27. Amend § 141.11 by adding paragraph (b)(2)(ix) and paragraph (b)(4) to read as follows:

§ 141.11 Pilot school ratings.

* * * * *

(b) * * *

(2) * * *

(ix) Flight instructor enhanced qualification training program.

* * * * *

(4) *Combined Private Pilot Certification and Instrument Rating Course.* (Appendix M).

■ 28. Amend appendix K to part 141 by:

■ a. Revising the paragraph heading of paragraph 4;

■ b. Revising paragraphs 4.(a) through (c); and

■ c. Adding paragraph 14.

The revisions and addition read as follows:

Appendix K to Part 141—Special Preparation Courses

* * * * *

4. *Use of full flight simulators, flight training devices, or aviation training devices.*

(a) The approved special preparation course may include training in a full flight simulator or flight training device, provided it is representative of the aircraft for which the course is approved, meets requirements of this paragraph, and the training is given by an authorized instructor. A flight instructor enhanced qualification training program may include training in an advanced aviation training device in accordance with paragraph 14 of this appendix and § 61.195(h)(3)(v) of this chapter.

(b) Except for the airline transport pilot certification program in paragraph 13 of this appendix and the flight instructor enhanced qualification training program in paragraph 14 of this appendix, training in a full flight simulator that meets the requirements of § 141.41(a) may be credited for a maximum of 10 percent of the total flight training hour requirements of the approved course, or of this section, whichever is less.

(c) Except for the airline transport pilot certification program in paragraph 13 of this appendix and the flight instructor enhanced qualification training program in paragraph 14 of this appendix, training in a flight training device that meets the requirements of § 141.41(a), may be credited for a maximum of 5 percent of the total flight training hour requirements of the approved course, or of this section, whichever is less.

* * * * *

14. *Flight instructor enhanced qualification training program.* An approved flight instructor enhanced qualification training program must include the ground and flight training specified in § 61.195(h)(3) of this chapter. The FAA will not approve a course with fewer hours than those prescribed in § 61.195(h)(3) of this chapter.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a)(5), 44703(a), and Sec. 820 of Public Law 118–63, 138 Stat. 1330 (49 U.S.C. 44939 note) in Washington, DC.

Michael Gordon Whitaker,

Administrator.

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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October 2	Oct 17	Oct 23	Nov 1	Nov 6	Nov 18	Dec 2	Dec 31
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October 7	Oct 22	Oct 28	Nov 6	Nov 12	Nov 21	Dec 6	Jan 6
October 8	Oct 23	Oct 29	Nov 7	Nov 12	Nov 22	Dec 9	Jan 6
October 9	Oct 24	Oct 30	Nov 8	Nov 13	Nov 25	Dec 9	Jan 7
October 10	Oct 25	Oct 31	Nov 12	Nov 14	Nov 25	Dec 9	Jan 8
October 11	Oct 28	Nov 1	Nov 12	Nov 15	Nov 25	Dec 10	Jan 9
October 15	Oct 30	Nov 5	Nov 14	Nov 19	Nov 29	Dec 16	Jan 13
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October 18	Nov 4	Nov 8	Nov 18	Nov 22	Dec 2	Dec 17	Jan 16
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October 24	Nov 8	Nov 14	Nov 25	Nov 29	Dec 9	Dec 23	Jan 22
October 25	Nov 12	Nov 15	Nov 25	Nov 29	Dec 9	Dec 24	Jan 23
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