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Rules and Regulations

Federal Register
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Tuesday, March 28, 2023

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2023–0040]

RIN 1625–AA08

Special Local Regulation; Bonita Tideway, Brigantine, NJ

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary special local regulation for the navigable waters of the Bonita Tideway near Brigantine, NJ. This action is needed to provide for the safety of life on these navigable waters during a rowing regatta on April 1, 2023, and April 2, 2023. This rule prohibits persons and vessels from being in the regulated area during the enforcement period unless authorized entry by the Captain of the Port (COTP), Delaware Bay, or a designated representative.

DATES: This rule is effective from 4 p.m. on April 1, 2023, through 12:30 p.m. on April 2, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0040 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Dylan Caikowski, Waterways Management Division, Sector Delaware Bay, U.S. Coast Guard; telephone (215) 271–4814, email *SecDelBayWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

On December 19, 2022, Stockton University notified the Coast Guard that it will be hosting a collegiate rowing regatta amongst six universities on April 1, 2023, and April 2, 2023. The rowing regatta will be held in Bonita Tideway in Brigantine, NJ, between 34th Street and Brigantine Boulevard and the Brigantine Yacht Club. In response, on January 27, 2023, the Coast Guard published a notice of proposed rulemaking (NPRM) titled Special Local Regulation; Bonita Tideway, Brigantine, NJ (88 FR 5289). There, we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this rowing regatta. We received no comments during the comment period, which ended February 27, 2023.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because the special local regulation needs to be in effect by April 1, 2023 to ensure the safety of participants and waterway users before, during, and after the scheduled rowing regatta.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The COTP has determined that the rowing regatta could pose a risk to participants or waterway users if normal vessel traffic were to interfere with the event. Possible hazards include risks of participant injury or death from near or actual collisions with non-participant vessels traversing through the regulated area.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published January 27, 2023. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a special local regulation from 4 p.m. on April 1, 2023, until 12:30 p.m. on April 2, 2023. The special local regulation will be enforced from 4 p.m. to 6:30 p.m. on April 1, 2023, and from 8:30 a.m. to 12:30 p.m. on April 2, 2023. The regulated area covers all navigable waters of Bonita Tideway in Brigantine, NJ, within a polygon bounded by the following: originating on the northern portion at approximate position latitude 39°24′33″ N., longitude 074°22′28″ W.; thence southwest across the Bonita Tideway to the shoreline to latitude 39°24′22″ N., longitude 074°22′49″ W.; thence southwest along the shoreline to latititude 39°23′49″ N., longitude 074°23′33″ W.; thence across the Bonita Tideway to the shoreline at latitude 39°23′43″ N., longitude 074°23′33″W.; thence north along the shoreline to the point of origin. The duration of the zone is intended to ensure the safety of participants and waterway users before, during, and after the scheduled rowing regatta. No vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size and duration of the regulated area, which would impact a small designated area of the Bonita Tideway. Vessels will be able to transit the regulated area during the enforcement period as directed by the Event Patrol Commander (PATCOM) or official patrol vessel.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended,

requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received 0 comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation lasting only 7 hours over 2 days that will prohibit or restrict entry within the regulated area during a rowing regatta. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C. 70041; 33 CFR 1.05–1.

■ 2. Add § 100.T599–0040 to read as follows:

§ 100.T599–0040 Special Local Regulation; Bonita Tideway, Brigantine, NJ.

(a) *Regulated area.* All navigable waters of the Bonita Tideway in Brigantine, NJ, within the polygon bounded by the following: originating on the northern portion at approximate position latitude 39°24′33″ N, longitude 074°22′28″ W; thence southwest across the Bonita Tideway to the shoreline to latitude 39°24′22″ N, longitude 074°22′49″ W; thence southwest along the shoreline to latititude 39°23′49″ N, longitude 074°23′33″ W; thence across the Bonita Tideway to the shoreline at latitude 39°23′43″ N, longitude 074°23′33″ W; thence north along the shoreline to the point of origin.

(b) *Definitions.* The following definitions apply to this section:

Captain of the Port Representative or COTP Representative means a commissioned, warrant, or petty officer of the Coast Guard designated by name by the Captain of the Port to verify an event's compliance with the conditions of its approved permit.

Event Patrol Commander or Event PATCOM means any vessel assigned or approved by the respective Captain of the Port with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign, or any state or local law enforcement vessel approved by the Captain of the Port in accordance with current local agreements.

Non-participant means a person or a vessel not registered with the event sponsor either as a participant or an official patrol vessel.

Official patrol vessel or official patrol means any vessel assigned or approved by the respective Captain of the Port with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign, or any state or local law enforcement vessel approved by the

Captain of the Port in accordance with current local agreements.

Participant means any person or vessel registered with the event sponsor as participating in the event or otherwise designated by the event sponsor as having a function tied to the event.

(c) *Patrol of the marine event.* The COTP may assign one or more official patrol vessels, as described in § 100.40, to the regulated event. The Event PATCOM will be designated to oversee the patrol. The patrol vessel and the Event PATCOM may be contacted on VHF–FM Channel 16. The Event PATCOM may terminate the event, or the operation of any vessel participating in the marine event, at any time if deemed necessary for the protection of life or property.

(d) *Special local regulations.* (1) Controls on vessel movement. The Event PATCOM or official patrol vessel may forbid and control the movement of all persons and vessels in the regulated area(s). When hailed or signaled by an official patrol vessel, the person or vessel being hailed must immediately comply with all directions given. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(2) Directions, instructions, and minimum speed necessary.

(i) The operator of a vessel in the regulated area must stop the vessel immediately when directed to do so by an official patrol vessel and then proceed only as directed.

(ii) A person or vessel must comply with all instructions of the Event PATCOM or official patrol vessel.

(iii) A non-participant must contact the Event PATCOM or an official patrol vessel to request permission to either enter or pass through the regulated area. If permission is granted, the non-participant may enter or pass directly through the regulated area as instructed by the Event PATCOM or official patrol vessel at a minimum speed necessary to maintain a safe course that minimizes wake and without loitering.

(3) Postponement or cancellation. The COTP, or Event PATCOM may postpone or cancel a marine event at any time if, in the COTP's sole discretion, the COTP determines that cancellation is necessary for the protection of life or property.

(e) *Enforcement periods.* This section is subject to enforcement from 4 p.m. to 6:30 p.m. on April 1, 2023, and from 8:30 a.m. to 12:30 p.m. on April 2, 2023.

Dated: March 21, 2023.

Jonathan D. Theel,

Captain, U.S. Coast Guard, Captain of the Port, Delaware Bay.

[FR Doc. 2023–06385 Filed 3–27–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 208

[CIS No. 2720–22; DHS Docket No. USCIS–2023–0003]

RIN 1615–AC84

DEPARTMENT OF JUSTICE

Executive Office for Immigration Review

8 CFR Parts 1003 and 1240

[EOIR No. 23–0010; AG Order No. 5632–2023]

RIN 1125–AB29

Implementation of the 2022 Additional Protocol to the 2002 U.S.-Canada Agreement for Cooperation in the Examination of Refugee Status Claims From Nationals of Third Countries

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security; Executive Office for Immigration Review, Department of Justice.

ACTION: Final rule.

SUMMARY: This rule amends existing Department of Homeland Security (''DHS'') and Department of Justice (''DOJ'') (collectively, ''the Departments'') regulations to implement the Additional Protocol to the Agreement between The Government of the United States of America and The Government of Canada For Cooperation in the Examination of Refugee Status Claims From Nationals of Third Countries (''Additional Protocol of 2022'') negotiated by the Governments of the United States and Canada and signed in Ottawa, Ontario, Canada, on March 29, 2022, and in Washington, DC, United States, on April 15, 2022, respectively. The Additional Protocol of 2022 supplements certain terms of the December 5, 2002, Agreement between The Government of the United States and The Government of Canada For Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries (''Safe Third Country Agreement,'' ''STCA,'' or ''Agreement''). Pursuant to the STCA, the respective governments manage which government decides certain individuals' requests for asylum or other protection relating to fear of persecution or torture (referred to as a ''refugee status claim'' in the STCA and the Additional Protocol of 2022) pursuant to its laws, regulations, and policies implementing its international treaty obligations relating to non-refoulement. Under the STCA, only those individuals who cross the U.S.-Canada land border at a port of entry (''POE''), or in transit while being removed or deported to a third country from the ''country of last presence,'' are subject to the terms of the STCA. Once the Additional Protocol of 2022 is implemented, the STCA also will apply to individuals who cross the U.S.-Canada land border between POEs, including certain bodies of water, and who make an asylum or other protection claim relating to a fear of persecution or torture within 14 days after such crossing. The Additional Protocol of 2022 will enter into force once the United States and Canada have officially notified each other that they have completed the necessary domestic procedures for bringing the Additional Protocol of 2022 into force. The Departments intend this official notification to coincide with the effective date of this final rule at 12:01 a.m. on Saturday, March 25, 2023.

DATES: This final rule is effective at 12:01 a.m. on Saturday, March 25, 2023.

FOR FURTHER INFORMATION CONTACT:

For U.S. Citizenship and Immigration Services: Renáa Cutlip-Mason, Chief, Division of Humanitarian Affairs, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security, 5900 Capital Gateway Drive, Camp Springs, MD 20588–0009; telephone (240) 721–3000 (not a toll-free call).

For Executive Office of Immigration Review: Lauren Alder Reid, Assistant Director, Office of Policy, Executive Office for Immigration Review, Department of Justice, 5107 Leesburg Pike, Suite 1800, Falls Church, VA 22041; telephone (703) 305–0289 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Purpose of the Regulatory Action

The Departments are amending their respective regulations to implement the Additional Protocol of 2022 to the STCA.[1] Under the STCA and its existing implementing regulations, third country nationals seeking asylum or other protection from persecution or torture must make a claim in the first country they arrive in (United States or Canada), unless they qualify for an exception to the STCA.[2] Therefore, asylum seekers [3] arriving from Canada at a land border POE [4] in the United States, or in transit through the United States during removal by Canada, are generally barred from pursuing their asylum or other protection claim relating to fear of persecution or torture [5] in the United States unless they meet an exception under the STCA. Those who do not meet an exception under the STCA may be returned to Canada to pursue their claim. Similarly, third country nationals arriving from the United States at a Canadian land border POE, or in transit through Canada during removal by the United States, who are seeking asylum or other protection relating to fear of persecution or torture in Canada may be returned to the United States under the STCA to pursue their asylum or other protection claim relating to fear of persecution or torture under United States immigration law, unless they qualify for an exception under the STCA.

The Additional Protocol of 2022 supplements the STCA.[6] The United and Canada have agreed to the Additional Protocol of 2022, but amendments to the existing regulations of the United States are necessary to extend the STCA's application under the Additional Protocol of 2022 to individuals who cross between the official POEs along the U.S.-Canada shared border, including certain bodies of water as determined by the United States and Canada, and make an asylum or other protection claim relating to fear of persecution or torture within 14 days after such crossing.

B. Summary of Legal Authority

The authority for the Attorney General and the Secretary of Homeland Security (''Secretary'') to issue this final rule is found in section 208(a)(2)(A) of the Immigration and Nationality Act (''INA'' or ''the Act''), 8 U.S.C. 1158(a)(2)(A), which governs an individual's eligibility to apply for asylum if the Attorney General or the Secretary determines that the noncitizen may be removed, pursuant to a bilateral or multilateral agreement, to a safe third country. Under sections 103(a)(1) and (3) of the INA, 8 U.S.C. 1103(a)(1), (3), the Secretary is authorized to establish such regulations as the Secretary deems necessary for carrying out the Secretary's authority under the INA. Under section 103(g) of the INA, 8 U.S.C. 1103(g), the Attorney General is authorized to establish such regulations as the Attorney General deems necessary in immigration proceedings.

C. Summary of the Final Rule Provisions

This rule does not alter the procedures applied to expedited removal proceedings, credible fear screenings, or threshold screening interviews as provided in the current regulations. The STCA is implemented within the existing framework that authorizes the removal of noncitizens [7] from the United States, including expedited removal proceedings under section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1), and ordinary removal proceedings before an immigration judge under section 240 of the INA, 8 U.S.C. 1229a.

This final rule amends 8 CFR 208.30(e)(6) of the DHS regulations to authorize an asylum officer to conduct a threshold screening interview. This interview will determine whether a noncitizen is ineligible to apply for asylum by claiming a fear of persecution or torture (pursuant to section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A)), when such a claim is made within 14 days after crossing the U.S.-Canada land border between POEs, including crossing the border in bodies of water mutually designated by the United States and Canada. This final rule revises 8 CFR 208.30(e)(6)(i) to clarify that persons who are subject to the Additional Protocol of 2022 and who do not qualify for an exception under the STCA are ineligible to apply for asylum in the United States. This rule also revises 8 CFR 208.30(e)(6)(ii) by adding a reference to the Additional Protocol of 2022 to clarify that a noncitizen must establish, by a preponderance of the evidence, that an exception applies before an asylum officer may proceed with the credible fear determination. This rule also amends 8 CFR 208.30(e)(6)(iii) by clarifying that the STCA includes the Additional Protocol of 2022. This rule also revises 8 CFR 208.30(e)(7) by adding a reference to the Additional Protocol of 2022 to clarify that the

[1] *See* Agreement between The Government of The United States of America and The Government of Canada For Cooperation in the Examination of Refugee Status Claims From Nationals of Third Countries, Can.-U.S., Dec. 5, 2002, T.I.A.S. No. 04–1229, *https://www.state.gov/04-1229.*

[2] *See* STCA art. 4; *see also* 8 CFR 208.30(e)(6), 1003.42(h), 1240.11(g).

[3] The Departments use the term ''asylum seeker'' to be synonymous with the term ''Refugee Status Claimant'' used in the STCA and Additional Protocol of 2022, which is defined as ''any person who makes a refugee status claim in the territory of one of the Parties.'' STCA art. 1(d).

[4] *See* 19 CFR 101.1 (defining ''port'' and ''port of entry'') and 8 CFR 100.4 (list of POEs).

[5] The Departments use the term ''asylum or other protection claim relating to persecution or torture'' to be synonymous with the phrase ''Refugee Status Claim'' used in the STCA and Additional Protocol of 2022, which means ''a request from a person to the government of either Party for protection consistent with the Convention or the Protocol, the Torture Convention, or other protection grounds in accordance with the respective laws of each Party.'' STCA art. 1(c). The Convention, Protocol, and Torture Convention referenced in the definition are the Convention Relating to the Status of Refugees, done at Geneva, July 28, 1951; the Protocol Relating to the Status of Refugees, done at New York, January 31, 1967; and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York, December 10, 1984.

[6] *See* Additional Protocol of 2022 art. 1. Correspondingly, the provisions of the STCA apply to the Additional Protocol of 2022 except as otherwise specified in the Additional Protocol of 2022. *See id.*

[7] For purposes of the discussion in this preamble, the Departments use the term ''noncitizen'' to be synonymous with the term ''alien'' as it is used in the INA. *See* INA 101(a)(3), 8 U.S.C. 1101(a)(3); *Barton* v. *Barr,* 140 S. Ct. 1442, 1446 n.2 (2020) (''This opinion uses the term 'noncitizen' as equivalent to the statutory term 'alien.' *See* 8 U.S.C. 1101(a)(3).''). Throughout this preamble the Departments also use the terms ''individual'' or ''person.''

procedures outlined in 8 CFR 208.30(e)(7) apply to noncitizens who are subject to an agreement under section 208(a)(2)(A) of the Act, 8 U.S.C. 1158(a)(2)(A), other than the U.S.-Canada STCA, which includes the Additional Protocol of 2022.

Further, this rule revises 8 CFR 1003.42(h)(1) of the regulations of the Department of Justice's Executive Office for Immigration Review (''EOIR''), which establishes that an asylum officer's determination relating to the application of the STCA is not subject to an immigration judge's review. This final rule clarifies that this provision also extends to determinations made pursuant to the Additional Protocol of 2022. This rule also revises 8 CFR 1003.42(h)(2) to clarify that the existing provisions, which establish that any determination by DHS that a noncitizen being removed from Canada in transit through the United States should be returned to Canada to pursue asylum claims under Canadian law is not subject to an immigration judge's review, also extend to a determination made pursuant to the Additional Protocol of 2022.

Next, because the STCA, as supplemented by the Additional Protocol of 2022, also applies to individuals in removal proceedings, this final rule makes corresponding amendments to 8 CFR 1240.11(g) (heading) and (g)(1) through (4) of the EOIR regulations to require an immigration judge to consider the Additional Protocol of 2022 to the STCA in determining whether a noncitizen should be returned to Canada for adjudication of their protection claim or whether the noncitizen should be permitted to apply for asylum or seek other protection relating to fear of persecution or torture in the United States. Last, this rule revises 8 CFR 1240.11(h)(1) by adding a reference to the Additional Protocol of 2022 to clarify that the procedures outlined in 8 CFR 1240.11(h)(1) apply to noncitizens who are subject to agreements under section 208(a)(2)(A) of the Act, 8 U.S.C. 1158(a)(2)(A), other than the U.S.-Canada STCA, which includes the Additional Protocol of 2022.

II. Background

A. DOJ and DHS Legal Authority

The Attorney General and the Secretary publish this joint rule pursuant to their respective authorities concerning asylum, withholding of removal under section 241(b)(3) of the INA, 8 U.S.C. 1231(b)(3) (''statutory withholding of removal''), and protection under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment[8] (''Convention Against Torture'' or ''CAT'') determinations. The Homeland Security Act of 2002 (''HSA''), Public Law 107–296, 116 Stat. 2135, as amended, created DHS and transferred to it many functions related to the administration and enforcement of Federal immigration law.

The INA, as amended by the HSA, charges the Secretary ''with the administration and enforcement of [the INA] and all other laws relating to the immigration and naturalization of [noncitizens],'' and it grants the Secretary the power to take all actions ''necessary for carrying out'' his authority under the immigration laws. *See* INA 103(a)(1), (3), 8 U.S.C. 1103(a)(1), (3); *see also* 6 U.S.C. 112, 202. The Secretary's authority also includes the authority to publish regulations governing the apprehension, inspection and admission, detention, removal, withholding of removal, and release of noncitizens encountered in the interior of the United States or at or between the U.S. POEs. *See* INA 235, 236, 241, 8 U.S.C. 1225, 1226, 1231.

In addition, under the HSA, the Attorney General retained authority over conduct of removal proceedings pursuant to section 240 of the INA, 8 U.S.C. 1229a (''section 240 removal proceedings''). EOIR's immigration judges conduct these adjudications. *See* INA 103(g), 8 U.S.C. 1103(g), 6 U.S.C. 521; *see also* 8 CFR 1001.1(l). This immigration judge authority includes adjudication of certain asylum applications, as well as requests for statutory withholding of removal and protection under the CAT. Additionally, the INA provides that ''determination and ruling by the Attorney General with respect to all questions of law shall be controlling.'' INA 103(a)(1), 8 U.S.C. 1103(a)(1).

The INA authorizes the Attorney General and Secretary to set ''requirements and procedures'' for implementing the asylum provisions in section 208(b)(1)(A) of the INA, 8 U.S.C. 1158(b)(1)(A), and to establish by regulation, consistent with section 208 of the INA, 8 U.S.C. 1158, ''other conditions or limitations on the consideration of an application for asylum,'' INA 208(d)(5)(B), 8 U.S.C. 1158(d)(5)(B).

The HSA grants to DHS concurrent authority to adjudicate affirmative asylum applications—*i.e.,* applications for asylum filed with DHS for individuals not in removal proceedings—and authority to conduct credible fear interviews, make credible fear determinations in the context of expedited removal, and establish procedures for further consideration of asylum applications after an individual is found to have a credible fear. *See* 6 U.S.C. 271(b)(3); INA 235(b)(1)(B), 8 U.S.C. 1225(b)(1)(B). By operation of the HSA, the references to the ''Attorney General'' in the INA are understood also to encompass the Secretary, either solely or additionally, with respect to statutory authorities vested in the Secretary in the HSA or subsequent legislation, including in relation to immigration proceedings before DHS. *See* 6 U.S.C. 557. Some of those authorities have been delegated within DHS to the Director of U.S. Citizenship and Immigration Services (''USCIS''), and USCIS asylum officers conduct threshold screening interviews, conduct credible fear interviews, make credible fear determinations, and determine whether a noncitizen's asylum application should be granted.[9] *See* 8 CFR 208.2(a), 208.9, 208.30.

With limited exceptions, immigration judges within DOJ adjudicate asylum, statutory withholding of removal, and CAT protection applications filed by noncitizens during the pendency of section 240 removal proceedings, and immigration judges adjudicate applications of asylum-seekers in cases USCIS refers to the immigration court. 8 CFR 1208.2(b), 1240.1(a); *see* INA 101(b)(4), 240(a)(1), 241(b)(3), 8 U.S.C. 1101(b)(4), 1229a(a)(1), 1231(b)(3).

The United States is a party to the 1967 Protocol Relating to the Status of Refugees, Jan. 31, 1967, 19 U.S.T. 6223, 606 U.N.T.S. 268 (''Refugee Protocol''), which incorporates Articles 2 through 34 of the 1951 Convention Relating to the Status of Refugees, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 150 (''Refugee Convention''). Article 33 of the Refugee Convention generally provides that parties to the Convention cannot expel or return (''refouler'') ''a refugee in any manner whatsoever to the frontiers of territories where [their] life or freedom would be threatened on account of [their] race, religion, nationality, membership of a particular social group or political opinion.'' *See* 19 U.S.T. at 6276. The United States implements its non-refoulement obligations under Article 33 of the Refugee Convention (via the 1967 Protocol) through the statutory withholding of removal provision in section 241(b)(3) of the

[8] Dec. 10, 1984, S. Treaty Doc. No. 100–20, 1465 U.N.T.S. 85.

[9] *See* DHS, Delegation to the Bureau of Citizenship and Immigration Services, No. 0150.1 (June 5, 2003), *https://www.hsdl.org/?abstract&did=234775*.

INA, 8 U.S.C. 1231(b)(3), which provides that noncitizens may not be removed to a country where their life or freedom would be threatened on account of one of the protected grounds listed in Article 33 of the Refugee Convention. *See* 8 CFR 208.16, 1208.16; Regulations Concerning the Convention Against Torture, 64 FR 8478, 8478 (Feb. 19, 1999) (effective Mar. 22, 1999), as corrected by 64 FR 13881 (Mar. 23, 1999).

Similarly, ''[u]nder Article 3 [of the CAT], the United States has agreed not to 'expel, return (''refouler'') or extradite' a person to another state where [they] would be tortured.'' 64 FR at 8478. Regulations to implement the United States' obligations under Article 3 of the CAT are located primarily at 8 CFR 208.16(c) through 208.18 (DHS regulations) and 1208.16(c) through 1208.18 (EOIR regulations).[10]

B. Overview of the Safe Third Country Agreement in the Context of Asylum, Expedited Removal Proceedings, and Removal Proceedings

1. Asylum

Asylum is a discretionary benefit that can be granted by the Attorney General or the Secretary if a noncitizen establishes, among other things, that they have experienced past persecution or has a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. *See* INA 101(a)(42), 208, 240(c)(4)(A), 8 U.S.C. 1101(a)(42), 1158, 1229a(c)(4)(A); 8 CFR 208.13, 1208.13. Under section 208(a)(1) of the INA, 8 U.S.C. 1158(a)(1), any person who arrives or is physically present in the United States is generally permitted to apply for asylum. For an asylum officer or immigration judge to grant asylum, however, they must determine that no bars to applying for asylum [11] under section 208(a)(2) of the INA, 8 U.S.C. 1158(a)(2), nor any bars to eligibility for asylum under section 208(b)(2)(A) of the INA, 8 U.S.C. 1158(b)(2)(A), apply to an individual's case.[12] One of these bars provides that a noncitizen does not have the right to apply for asylum in the United States if the Attorney General or the Secretary [13] determines that the noncitizen ''may be removed, pursuant to a bilateral or multilateral agreement, to a country where the [noncitizen]'s life or freedom would not be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion, and where the [noncitizen] would have access to a full and fair procedure for determining a claim to asylum or equivalent temporary protection[.]'' INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A). The statute also preserves the Departments' discretion not to apply the bar in section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), in a given case if DHS ''finds that it is in the public interest for the [noncitizen] to receive asylum in the United States.'' *Id.* The INA further provides that ''[n]o court shall have jurisdiction'' to review any determination made under any of the provisions within section 208(a)(2) of the Act, 8 U.S.C. 1158(a)(2), including the safe third country provision at INA section 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A). *See* INA 208(a)(3), 8 U.S.C. 1158(a)(3).

2. Expedited Removal Proceedings and Removal Proceedings

The STCA is implemented within the framework of existing proceedings that authorize the removal of noncitizens from the United States, including expedited removal proceedings under section 235(b)(1) of the INA, 8 U.S.C. 1225(b)(1), and removal proceedings before an immigration judge under section 240 of the INA, 8 U.S.C. 1229a.

An applicant for admission must be inspected by an immigration officer [14] to determine whether the individual is admissible to the United States. *See* INA 235(a), (b), 8 U.S.C. 1225(a), (b). If a noncitizen cannot ''clearly and beyond a doubt'' establish that they are entitled to be admitted, then an immigration officer will determine, as a matter of discretion, whether the individual will be placed in expedited removal proceedings, where applicable, under section 235 of the INA, 8 U.S.C. 1225, or in removal proceedings under section 240 of the INA, 8 U.S.C. 1229a.[15]

Under expedited removal proceedings, individuals arriving in the United States, also referred to as ''arriving aliens'' [16] or ''certain other [noncitizens]'' as designated by the Secretary who are found to be inadmissible under either section 212(a)(6)(C) of the INA, 8 U.S.C. 1182(a)(6)(C), for misrepresentation, or section 212(a)(7) of the INA, 8 U.S.C. 1182(a)(7), for failure to meet documentation requirements for admission, may be ''removed from the United States without further hearing or review unless the [noncitizen] indicates either an intention to apply for asylum under [section 208 of the INA, 8 U.S.C. 1158] or a fear of persecution.'' INA 235(b)(1)(A)(i), (iii), 8 U.S.C. 1225(b)(1)(A)(i), (iii); 8 CFR 235.3(b). In addition to the foregoing classes of noncitizens subject to expedited removal, the Secretary has designated other noncitizens subject to expedited removal, including noncitizens who are present in the United States without having been inspected at a POE, who are encountered by an immigration officer within 100 air miles of a U.S. land border, ''who have not established to the satisfaction of an immigration officer that they have been physically present in the U.S. continuously for the fourteen-day (14-day) period immediately prior to the date of encounter,'' and who otherwise meet certain criteria for expedited removal.[17]

Generally, if a noncitizen is placed into expedited removal proceedings, and the noncitizen indicates an intention to apply for asylum or expresses a fear of persecution or torture or a fear of return to their country,[18] the examining immigration officer will refer the noncitizen for an interview with an asylum officer. The purpose of the interview with an asylum officer is to screen for potential eligibility for asylum and other related protection claims relating to fear of persecution or torture. *See* 8 CFR 208.30(e)(2) and (3). Under the STCA, however, for

[10] *See* 64 FR at 8478.

[11] The bars to applying for asylum include removal to a safe third country (INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A)), the one-year filing deadline for filing an application for asylum (INA 208(a)(2)(B), 8 U.S.C. 1158(a)(2)(B)), and previous denials of asylum (INA 208(a)(2)(C), 8 U.S.C. 1158(a)(2)(C)).

[12] The bars to eligibility for asylum include persecution of others on account of one of the protected grounds, conviction of a particularly serious crime, serious reasons for believing the noncitizen committed a serious nonpolitical crime outside the United States prior to arrival in the United States, certain support for or participation in terrorist activities, reasons for regarding the noncitizen as a danger to the security of the United States, and firm resettlement. *See* INA 208(b)(2)(A), 8 U.S.C. 1158(b)(2)(A).

[13] As noted previously noted in Part II.A of this preamble, references to the Attorney General in the INA, in general, are to be read as referring to the Secretary of Homeland Security, either solely or in addition to the Attorney General, by operation of the HSA. *See* 6 U.S.C. 557.

[14] *See* 8 CFR 1.2 (defining ''immigration officer'').

[15] *See* INA 235(b)(2)(A), 8 U.S.C. 1225(b)(2)(A) (''Subject to subparagraphs (B) and (C), in the case of a [noncitizen] who is an applicant for admission, if the examining immigration officer determines that a [noncitizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the [noncitizen] shall be detained for a proceeding under [section 240.]''); *see also* INA 235(b)(2)(B), 8 U.S.C. 1225(b)(2)(B) (providing that crewmen, stowaways, and noncitizens subject to expedited removal are not entitled to section 240 removal proceedings).

[16] ''Arriving alien'' is defined in regulations as meaning, in general, an ''applicant for admission coming or attempting to come into the United States at a port-of-entry,'' and the term includes noncitizens who are interdicted at sea and brought into the United States. 8 CFR 1.2, 1001.1(q).

[17] *See* Designating Aliens For Expedited Removal, 69 FR 48877, 48877 (Aug. 11, 2004).

[18] *See* 8 CFR 235.3(b)(4).

noncitizens arriving from Canada at a land border POE, the asylum officer will conduct a threshold screening, prior to any credible fear screening, to determine whether a noncitizen is subject to the STCA and barred from applying for asylum or seeking other protection relating to fear of persecution or torture. *See* 8 CFR 208.30(e)(6), 8 CFR 1240.11(g)(4). An immigration judge does not have jurisdiction to review an asylum officer's determination that the STCA applies. *See* 8 CFR 1003.42(h)(1) and (2). Under 8 CFR 208.30(e)(7) or 8 CFR 1240.11(h), if a noncitizen is subject to an agreement other than the U.S.-Canada STCA, the procedures outlined in 8 CFR 208.30(e)(7) or 1240.11(h) apply. *See* 8 CFR 208.30(e)(7), 1240.11(h).

If DHS does not make an STCA determination and refers the noncitizen to an immigration judge for section 240 removal proceedings, the immigration judge determines whether the noncitizen is eligible to apply for asylum or other protection claims relating to fear of persecution or torture, including whether the STCA applies to render the noncitizen ineligible to apply for asylum under section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), and subject to removal to Canada under the terms of the STCA. *See* INA 235(b)(1)(A)(i), (b)(2)(A), 8 U.S.C. 1225(b)(1)(A)(i), (b)(2)(A); 8 CFR 235.1(f)(2), 1240.11(g).

3. Safe Third Country Agreement

On December 5, 2002, the Governments of Canada and the United States signed the STCA to effectively manage the flow of asylum and other protection claimants between the two countries. The STCA allocates responsibility between the United States and Canada whereby one country or the other (but not both) assumes responsibility for processing the claims of certain third country national [19] asylum seekers who are traveling from Canada into the United States or from the United States into Canada. The STCA provides for a threshold determination concerning which country will consider the merits of a noncitizen's asylum and other protection claims relating to persecution or torture. This process enhances the two nations' ability to manage, in an orderly fashion, asylum and other protection claims brought by persons crossing the U.S.-Canada common border.[20]

Consistent with section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), the STCA provides for the return of certain asylum seekers to the ''country of last presence,'' the country in which the noncitizen was physically present immediately prior to making the asylum or protection claim,[21] following the crossing of the land border at a POE,[22] or in transit from the country of last presence during the course of deportation or removal. Accordingly, under the STCA, noncitizens arriving in the United States from Canada at a POE, or in transit, must seek asylum or protection in Canada, unless they meet an exception under the STCA.[23]

The Attorney General and the Secretary promulgated final rules implementing the STCA, adding, among other provisions, 8 CFR 208.30(e) (DHS regulations) and 8 CFR 1003.42(h) and 1240.11(g) (EOIR regulations) on November 29, 2004.[24]

The DHS regulations implementing the STCA under 8 CFR 208.30(e)(6) provide a mechanism within the expedited removal process for determining whether the STCA or its exceptions apply.[25] Prior to making a determination whether a noncitizen who is arriving in the United States (at a U.S.-Canada land border POE or in transit through the United States during removal by Canada) and placed into expedited removal proceedings has a credible fear of persecution or torture, the asylum officer conducts the threshold screening interview to determine whether the noncitizen is ineligible to apply for asylum or other protection relating to persecution or torture and subject to removal to Canada.[26] In doing so, the asylum officer follows the same non-adversarial interview procedures as generally used in the expedited removal credible fear context.[27] Additionally, the asylum officer advises the noncitizen of the STCA's exceptions and questions the noncitizen as to whether any of the exceptions apply to the noncitizen's case.[28] If the asylum officer, with concurrence from a supervisory asylum officer, determines that the STCA applies and that the noncitizen does not qualify for an exception under the STCA, the noncitizen is not eligible to apply for asylum or other protection relating to persecution or torture in the United States. The noncitizen is advised that the noncitizen will be removed to pursue their protection claim(s) in Canada. *See* 8 CFR 208.30(e)(6)(i).

If the noncitizen establishes by a preponderance of the evidence that the noncitizen qualifies for an exception under the terms of the STCA, the asylum officer will make a written notation of the basis for the STCA exception and conduct a credible fear interview to determine whether the noncitizen has a credible fear of persecution or torture.[29]

For individuals arriving from Canada at a land border POE or in transit during removal by the Canadian government who are issued a Notice to Appear placing them directly in section 240 removal proceedings (instead of being processed through expedited removal proceedings [30]), the immigration judge makes the STCA determination, as authorized by 8 CFR 1240.11(g) of the EOIR regulations. The immigration

[19] The STCA does not apply to those seeking asylum or other protection relating to fear of persecution or torture who are citizens of Canada or the United States or who, not having a country of nationality, are habitual residents of Canada or the United States. *See* STCA art. 2.

[20] *See* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit and at Land Border Ports of Entry, 69 FR 69480, 69488 (Nov. 29, 2004) (''DHS Final Rule'').

[21] *See* STCA art. 1(a) (defining ''Country of Last Presence'').

[22] *See* 19 CFR 101.1 (defining POE); *see also* 8 CFR 100.4 (list of POEs).

[23] Under Article 6 of the STCA, either country retains discretion to examine a protection claim where it determines that it is the public interest to do so, notwithstanding the provisions of the STCA.

[24] *See* DHS Final Rule, 69 FR at 69480; Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry, 69 FR 69490 (Nov. 29, 2004) (''DOJ Final Rule''). The final rules were issued after the Departments both had published proposed rules. *See* Implementation of the Agreement Between the Government of the United States of America and the Government of Canada Regarding Asylum Claims Made in Transit at Land Border Ports-of-Entry, 69 FR 10620 (Mar. 8, 2004); Asylum Claims Made by Aliens Arriving from Canada at Land Border Ports-of-Entry, 69 FR 10627 (Mar. 8, 2004).

[25] The exceptions under the STCA can be found in 8 CFR 208.30(e)(6)(iii) and (iv).

[26] *See* 8 CFR 208.30(e)(6).

[27] *See* 8 *id.* (''In conducting this threshold screening interview, the asylum officer shall apply all relevant interview procedures outlined in paragraph (d) of this section, provided, however, that paragraph (d)(2) of this section shall not apply to aliens described in this paragraph[.]'').

[28] *See* 8 CFR 208.30(e)(6).

[29] *See* 8 CFR 208.30(e)(6)(ii). When a noncitizen is determined to be not subject to the STCA or subject to an exception, the asylum officer conducts the credible fear screening to identify potential eligibility for asylum, statutory withholding of removal, and protection under the CAT. *See* 8 CFR 208.30 (describing this process). If the asylum officer determines that a noncitizen does have a credible fear of persecution or torture, DHS may either: (1) refer the noncitizen to an immigration judge by initiating section 240 removal proceedings where the noncitizen may apply for asylum or other protection, or (2) retain jurisdiction over the noncitizen's asylum claim for further consideration in an interview pursuant to 8 CFR 208.9(b). *See* 8 CFR 208.2(a)(1)(ii), 208.30(f), 1208.2(a)(1)(ii), 1235.6(a)(1)(i).

[30] DHS has discretion to place a noncitizen who is otherwise subject to expedited removal into section 240 removal proceedings before an immigration judge. *See Matter of E–R–M– & L–R–M–*, 25 I&N Dec. 520, 523 (BIA 2011).

judge makes this determination during the course of section 240 removal proceedings and in accordance with the procedures set forth in 8 CFR 1240.1 *et seq.* If the immigration judge determines that the STCA applies and the noncitizen does not qualify for an exception to STCA, the noncitizen is ineligible to apply for asylum or other protection.[31] The noncitizen may apply for any other relief from removal for which the noncitizen may be eligible, but if the noncitizen is ordered removed, the noncitizen shall be ordered removed to Canada.[32] The immigration judge may not review, consider, or decide any discretionary public interest exception because such determinations are reserved to DHS. However, if DHS files a written notice in the proceedings before the immigration judge that DHS has decided in the public interest to allow the noncitizen to pursue claims for asylum or other related protection in the United States, the noncitizen may apply for asylum and or other related protection.[33]

Under 8 CFR 208.30(e)(6)(ii), or under 8 CFR 1240.11(g)(2) (if the noncitizen is in section 240 removal proceedings), noncitizens must establish by a preponderance of the evidence that they qualify for an exception under the terms of the STCA in order to establish eligibility to apply for asylum.

C. Updates to the Safe Third Country Agreement Through the Additional Protocol of 2022

Canada and the United States negotiated the Additional Protocol of 2022 to allow both governments to extend the application of the STCA to individuals who cross the U.S.-Canada land border between POEs, including certain bodies of water, and who make an asylum or other protection claim relating to fear of persecution or torture within 14 days after such crossing.

On February 23, 2021, President Biden released a statement with Prime Minister Justin Trudeau of Canada: Roadmap for a Renewed U.S.-Canada Partnership.[34] The leaders declared a shared interest in revitalizing and expanding the two countries' ''historic alliance and steadfast friendship.'' [35] The leaders expressed their common concern about the global migration crisis, commitment to providing haven to refugees and asylum seekers, and determination to work together to strengthen efforts in these areas, including refugee resettlement.[36]

On November 18, 2021, the two leaders (also joined by President Andrés Manuel López Obrador of Mexico) issued a joint statement following the North American Leaders' Summit (''NALS''), underscoring the need for bold regional cooperation due to ''[t]he complex factors causing an extraordinary increase in irregular migration throughout the hemisphere.'' [37] They also affirmed their commitment to adopt an ambitious and comprehensive approach to safe, orderly, and humane migration management, based on shared responsibility.[38]

The Canadian Minister of Immigration, Refugees, and Citizenship and the Secretary finalized the Additional Protocol of 2022, signed in Ottawa, Ontario, Canada, on March 29, 2022, and in Washington, DC, United States, on April 15, 2022, respectively.

The Additional Protocol of 2022 does not change the existing provisions of the STCA or the processes associated with the determinations on whether the STCA applies. However, it extends the application of the STCA so that it applies not only to noncitizens who are encountered at a POE or in transit, but now also to noncitizens who enter in areas located between POEs on the U.S.-Canada land border, including certain bodies of water as mutually determined by the Governments of the United States and Canada, and who make an asylum or other protection claim relating to fear of persecution or torture within 14 days after such crossing.[39] The Additional Protocol of 2022 also stipulates that the country of last presence will not be required to accept the return of an asylum seeker if it determines that the asylum seeker did not make a claim relating to fear of persecution or torture within 14 days after crossing the land border between the POEs.[40] To assist the country of last presence in making this determination, the Additional Protocol of 2022 provides that the receiving country shall provide the country of last presence any relevant information, including information regarding the apprehension or entry of the noncitizen, if available.[41]

The Additional Protocol of 2022 is expected to support orderly migration, ensure the integrity of the asylum process and processes related to other protection claims, encourage individuals to seek asylum in the country of last presence, and discourage dangerous and illegal crossings between POEs.

III. Discussion of Final Rule

A. General Discussion of Changes

With this final rule, the Departments are implementing the terms of the Additional Protocol of 2022 to the STCA and amending their respective regulations at 8 CFR 208.30(e)(6) and (7),[42] 8 CFR 1003.42(h)(1) and (2), and 8 CFR 1240.11(g) and (h)(1) [43] governing the threshold screening process and the eligibility of noncitizens to apply for

[31] *See* 8 CFR 1240.11(g)(4).

[32] *Id.*

[33] *See* 8 CFR 1240.11(g)(3).

[34] *See* White House, Roadmap for a Renewed U.S.-Canada Partnership (Feb. 23, 2021), *https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/23/roadmap-for-a-renewed-u-s-canada-partnership/* (''Roadmap'').

[35] *Id.*

[36] *Id.*

[37] *See* White House, Building Back Better Together: A Secure, Prosperous North America (Nov. 18, 2021), *https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/18/building-back-better-together-a-secure-prosperous-north-america/* (''Building Back Better Together'').

[38] *Id.; see also* White House, Fact Sheet: Key Deliverables for the 2023 North American Leaders' Summit, (Jan. 10, 2023), *https://www.whitehouse.gov/briefing-room/statements-releases/2023/01/10/fact-sheet-key-deliverables-for-the-2023-north-american-leaders-summit/* (''Fact Sheet''). Additionally, last year, Canada adopted the Los Angeles Declaration on Migration and Protection. *See* White House, Los Angeles Declaration on Migration and Protection (June 10, 2022), *https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/10/los-angeles-declaration-on-migration-and-protection/* (''Los Angeles Declaration'').

[39] *See* Additional Protocol of 2022 art. 1 (''Except to the extent specified herein, the provisions of the Agreement shall apply, *mutatis mutandis,* except Article 10 of the Agreement, to this Additional Protocol . . . .'').

[40] Additional Protocol of 2022 art. 3(b).

[41] *See id.* art. 3(c). The Additional Protocol of 2022 contains provisions that are not relevant to this rulemaking but that are related to the implementation of the Additional Protocol of 2022, such as provisions relating to the development of standard operating procedures (Article 4), Termination (Article 5), Suspension (Article 6), and Effective Date of the Additional Protocol of 2022 (Article 7).

[42] DHS is making conforming amendments to 8 CFR 208.30(e)(7), which addresses the implementation procedures for agreements under section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), other than the STCA and the Additional Protocol of 2022. DHS is amending the paragraph by replacing the current reference to the STCA of ''other than the U.S.-Canada Agreement effectuated in 2004'' with an updated reference to read ''other than the U.S.-Canada Agreement, which includes the Additional Protocol of 2022.'' The amendments thus clarify that the procedures outlined in paragraph (e)(7) of 8 CFR 208.30 do not apply to those noncitizens who are subject to the U.S.-Canada Agreement, which includes the Additional Protocol of 2022. *See* 8 CFR 208.30(e)(7) (revised).

[43] DOJ is making conforming amendments to 8 CFR 1240.11(h)(1), which addresses the implementation of procedures for bilateral or multilateral agreement other than the STCA and the Additional Protocol of 2022. DOJ is amending the paragraph by replacing the current reference to the STCA of ''—other than the 2002 U.S.-Canada Agreement—'' with an updated reference to read ''—other than the 2002 U.S.-Canada Agreement, which includes the Additional Protocol of 2022—.'' *See* 1240.11(h)(1) (revised).

asylum. Because the Additional Protocol of 2022 only expands the application of the STCA, but otherwise does not make any changes that would affect existing policies, procedures, and safeguards in and associated with the STCA determinations, the existing policies, procedures, and safeguards, as outlined in current regulations, also apply to the terms of the Additional Protocol of 2022.[44]

Under the amended final regulations, the terms of the STCA as supplemented by the Additional Protocol of 2022 will also apply to those individuals who cross the U.S.-Canada land border between the POEs on or after 12:01 a.m. on Saturday, March 25, 2023, and make a claim for asylum or other protection claim relating to a fear of persecution or torture within 14 days after such crossing. *See* 8 CFR 208.30(e)(6) and (7) and (e)(6)(i) through (iii), 1003.42(h)(1) and (2), 1240.11(g)(1) through (4) (as revised by this rule). Correspondingly, the Departments are adding references to the Additional Protocol of 2022 to these provisions where necessary to incorporate the Additional Protocol of 2022 within the regulatory framework.

Moreover, under the STCA, as supplemented by the Additional Protocol of 2022 and this rule, other noncitizens who are not defined as ''arriving aliens'' but who are subject to expedited removal proceedings will be subject to the same threshold screening to determine whether such noncitizens are barred from applying for asylum in the United States under the STCA, as supplemented by the Additional Protocol of 2022. These other individuals, who are subject to expedited removal proceedings with DHS, include noncitizens encountered within 100 miles of the land border and within 14 days of crossing the U.S.-Canada border.[45] In this context, a noncitizen is not eligible to apply for asylum or other related protection in the United States when DHS determines, during the threshold screening interview, that the noncitizen may be removed to Canada because the STCA, as supplemented by the Additional Protocol of 2022, is applicable and none of the exceptions apply to the noncitizen. *See* INA 208(a)(2), 8 U.S.C. 1158(a)(2); 8 CFR 208.30(e)(6)(i) through (iii) (revised). However, if DHS determines that the noncitizen has established by a preponderance of the evidence that an exception to the STCA, as supplemented by the Additional Protocol of 2022, does apply, then the asylum officer will make a written notation of the inapplicability of the STCA, which includes the Additional Protocol of 2022, and immediately proceed with the credible fear determination. *See* 8 CFR 208.30(e)(6)(ii) (revised). As provided in the existing EOIR regulations, immigration judges do not have jurisdiction to review an asylum officer's STCA determination.[46] The new regulatory text will continue to provide that an immigration judge does not have jurisdiction to review an asylum officer's STCA determination under the STCA, as supplemented by the Additional Protocol of 2022. *See* 8 CFR 1003.42(h)(1) (revised) (for applicants for admission), 8 CFR 1003.42(h)(2) (revised) (for noncitizens in transit).

DOJ is also amending the regulatory text of 8 CFR 1003.42(h)(1) by removing the term ''arriving alien'' and replacing it with ''applicants for admission'' to clarify that an asylum officer's determinations regarding applicants for admissions are not subject to review by the immigration judge. *See* 8 CFR 1003.F42(h)(1) (revised). However, where an asylum officer has made a negative credible fear finding, the new regulatory text continues to provide that an immigration judge will continue to have jurisdiction to review this finding. *See id.*

DOJ is further amending the EOIR regulations to add references to the Additional Protocol of 2022 throughout 8 CFR 1240.11(g) and (h)(1), where appropriate, and to reflect that if a noncitizen is placed into section 240 removal proceedings, the immigration judge will make the determination whether the STCA, as supplemented by the Additional Protocol of 2022, applies. *See* 8 CFR 1240.11(g)(1) and (g)(2)(i) (revised).

DOJ is also amending 8 CFR 1240.11(g)(2)(ii) and (g)(3) by adding references to the Additional Protocol of 2022 to clarify that individuals who are subject to the STCA, as supplemented by the Additional Protocol of 2022, may establish exceptions. *See* 8 CFR 1240.11(g)(2)(ii) and (g)(3) (revised). Furthermore, DOJ is amending 8 CFR 1240.11(g)(3) to clarify that an immigration judge does not have jurisdiction to review, consider, or decide any issues pertaining to any discretionary determination of whether the noncitizen should be permitted to pursue an asylum claim notwithstanding the STCA, as supplemented by the Additional Protocol of 2022, because, under current STCA procedures, discretionary public interest determinations are reserved to DHS. *See* 8 CFR 1240.11(g)(3) (revised).

As is the case under current STCA procedures, a noncitizen in section 240 removal proceedings otherwise ineligible to apply for asylum under the STCA, as supplemented by the Additional Protocol of 2022, may apply for asylum with an immigration judge if DHS files a written notice in the proceedings before the immigration judge that DHS has decided in the public interest to allow the noncitizen to pursue claims for asylum or other related protection. *See* 8 CFR 1240.11(g)(3) (revised). In addition, DOJ is amending 8 CFR 1240.11(g)(4), which provides that a noncitizen who is found to be ineligible to apply for asylum because of a safe third country agreement,[47] such as the STCA, is also ineligible to apply for statutory withholding of removal[48] or protection under the CAT. *See* 8 CFR 1240.11(g)(4). Because the Additional Protocol of 2022 supplements the STCA without changing this procedure, those noncitizens subject to the STCA, as supplemented by the Additional Protocol of 2022, will continue to be ineligible for withholding of removal or protection under the CAT. *See* 8 CFR 1240.11(g)(4) (revised). However, the noncitizen may apply for any relief from removal for which the noncitizen may be otherwise eligible, as is currently the case before the Additional Protocol of 2022 becomes effective. *See* 8 CFR 1240.11(g)(4) (current); 8 CFR 1240.11(g)(4) (revised).

Finally, DHS is amending the last sentence of 8 CFR 1240.11(g)(4) by adding a reference to the Additional Protocol of 2022. Adding a reference to the Additional Protocol of 2022 does not change procedures that have been in place under the STCA. The provision continues to state that, where an immigration judge determines that a noncitizen in removal proceedings is subject to the STCA and no exceptions apply, the noncitizen will be ordered removed to Canada, where the noncitizen will be able to pursue their protection claim under the laws of Canada, but the provision now clarifies that the STCA includes the Additional Protocol of 2022. *See* 8 CFR 1240.11(g)(4) (revised).

B. Determinations Regarding Crossing Between POEs and Whether 14 Days Have Elapsed

The Additional Protocol of 2022 supplements the STCA to provide that the STCA not only applies to

[44] Additional Protocol of 2022 art. 1.

[45] *See* 69 FR at 48877.

[46] *See* 8 CFR 1003.42(h)(1) and (2).

[47] *See* INA 208(a)(2)(A), 8 U.S.C. 1158(a)(2)(A).

[48] *See* INA 241(b)(3), 8 U.S.C. 1231(b)(3).

individuals encountered at a POE or in transit while being removed or deported to a third country, but also to individuals who have crossed the U.S.-Canada land border between POEs, including via mutually designated bodies of water along or across the U.S.-Canada land border, and who seek asylum or other protection relating to persecution or torture within 14 days after such crossing.[49] As explained throughout this preamble, the Departments have existing procedures in place in the expedited removal context and the section 240 removal proceedings context relating to individuals crossing the U.S. border at designated POEs, in transit, or between POEs, as well as for the assessment of a 14-day time frame. The STCA is embedded within this process. *See* Part II of this preamble. Hence, the determinations concerning applicability of the STCA, as supplemented by the Additional Protocol of 2022, including the location and time of a noncitizen's crossing, as well as the calculation of the 14 days, will be made within that existing framework.[50] Consistent with existing practice, the noncitizen may not challenge an asylum officer's determination regarding whether the STCA, as supplemented by the Additional Protocol of 2022, applies to the noncitizen. *See* 8 CFR 208.30(e)(6) (current); 8 CFR 208.30(e)(6) (revised); *see also* 8 CFR 1003.42(h); INA 208(a)(3), 8 U.S.C. 1158(a)(3).

C. Considerations Relating to the Preponderance-of-the-Evidence Standard

Under the STCA, a noncitizen must establish by a preponderance of the evidence that an exception to the STCA applies. *See* 8 CFR 208.30(e)(6)(ii) (DHS regulation), 1240.11(g)(2) (EOIR regulation). Because the implementation of the Additional Protocol of 2022 does not alter the procedural aspects of the administration of the STCA, a noncitizen—to establish eligibility to apply for asylum or other protection relating to a fear of persecution or torture—must continue to establish by a preponderance of the evidence that an exception to the STCA (now, as supplemented by the Additional Protocol of 2022), applies to the noncitizen. *See* 8 CFR 208.30(e)(6)(ii), 1240.11(g)(2)(i) (revised).

D. Return to the Country of Last Presence

The Additional Protocol of 2022 requires information-sharing steps that do not result in additional regulatory amendments. These steps will be included in the standard operating procedures of the United States and Canada related to information sharing and will help each country to address and resolve any differences regarding operational implementation.

Under the STCA as originally signed, neither the United States nor Canada is required to accept the return of an asylum seeker automatically; both countries review each case individually in making those decisions.[51] Either country may choose to allow an asylum seeker who is encountered at a POE, or in transit, from the other country to pursue an asylum or other protection claim relating to fear of persecution or torture if circumstances warrant in accordance with its own laws and policies.[52]

Similarly, under the terms of the Additional Protocol of 2022, the country of last presence is not required to accept the return of the asylum seeker if it determines that the noncitizen did not make a claim for asylum or other protection claim relating to fear of persecution or torture within 14 days after crossing the land border in between the POEs.[53]

Under the Additional Protocol of 2022, the receiving country is responsible for providing the country of last presence sufficient information relevant to the determination of the noncitizen's crossing of the land border between the POEs and the noncitizen's claim, including a copy of the record of apprehension between the POEs, if available, to assist the country of last presence in making the necessary determinations.[54] Therefore, before a noncitizen can be returned to Canada, DHS will provide relevant information, including a copy of the record of apprehension if available, to the Canadian Government.[55]

IV. Detailed Summary of Regulatory Changes

A. New 8 CFR 208.30(e)(6) and (7)

DHS is amending 8 CFR 208.30(e)(6) in the introductory text by adding references to the Additional Protocol of 2022. DHS is further amending the provision by adding that, prior to any determination concerning whether a noncitizen who, on or after 12:01 a.m. on Saturday, March 25, 2023, entered the United States by crossing the U.S.-Canada land border between POEs, including a crossing of the border in those waters as mutually designated by the United States and Canada, and who made an asylum or other protection claim relating to fear of persecution or torture within 14 days after such crossing, the asylum officer shall conduct a threshold screening interview to determine whether the noncitizen is ineligible to apply for asylum under section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), and subject to removal to Canada by operation of the STCA, which includes the Additional Protocol of 2022. DHS is further amending the third sentence of 8 CFR 208.30(e)(6) by adding a reference to the Additional Protocol of 2022 and rewording the provision, so that, under the amended provision, the asylum officer shall advise the noncitizen of the exceptions in the STCA, which includes the Additional Protocol of 2022, and question the noncitizen as to the applicability of any of these exceptions to the noncitizen's case.

DHS is amending 8 CFR 208.30(e)(6)(i) by adding references to the Additional Protocol of 2022 to clarify that, if the asylum officer, with concurrence from a supervisory asylum officer, determines from the threshold screening interview that the noncitizen is subject to the STCA, which includes the Additional Protocol of 2022, and that the noncitizen does not qualify for an exception under the STCA, which includes the Additional Protocol of 2022, then the noncitizen is ineligible to apply in the United States for asylum or other forms of protection relating to a fear of persecution or torture.

Next, DHS is amending 8 CFR 208.30(e)(6)(ii) by adding references to the Additional Protocol of 2022, where appropriate, to clarify that if a noncitizen establishes by a preponderance of the evidence that they

[49] *See* Additional Protocol of 2022 arts. 1–2.

[50] *See* 69 FR at 48879.

[51] *See* STCA art. 4(3); *see also* DHS Final Rule, 69 FR 69483–84; DOJ Final Rule, 69 FR 69493–94.

[52] *See* STCA arts. 4, 6.

[53] *See* Additional Protocol of 2022 art. 3(b).

[54] *See* Additional Protocol of 2022 art. 3(c).

[55] These additional information sharing steps do not result in additional regulatory amendments. In accordance with Article 4 of the Additional Protocol of 2022—which refers to Article 8 of the STCA's mandate to establish standard operating procedures—these procedures shall also be included in standard operating procedures to assist with the implementation. *See* Additional Protocol of 2022 art. 4. In accordance with the second paragraph of Article 8 of the STCA, which provides that these standard operating procedures ''shall include mechanisms for resolving differences respecting the interpretation and implementation of the terms of [the STCA],'' the Departments will cooperate with their Canadian counterparts to address and resolve any differences in the same spirit in which the STCA has been implemented over the years and in which the Additional Protocol of 2022 was negotiated. As reflected in the STCA and the Additional Protocol of 2022 themselves, and as previously indicated by DHS, the resolution of these procedures is more appropriately addressed through operating procedures than through the promulgation of regulations. *See* DHS Final Rule, 69 FR 69486.

qualify for an exception under the terms of the STCA, which includes the Additional Protocol of 2022, then the asylum officer shall make a written notation of the basis of the exception, and then proceed immediately to determine whether the noncitizen has a credible fear of persecution or torture under 8 CFR 208.30(d). DHS is amending 8 CFR 208.30(e)(6)(iii) by adding a reference to the Additional Protocol of 2022 to clarify that a noncitizen qualifies for an exception to the STCA, which includes the Additional Protocol of 2022, if the noncitizen is not being removed from Canada in transit through the United States and meets the requirements of the exceptions otherwise listed.

Last, DHS is amending 8 CFR 208.30(e)(7) to clarify that the STCA referenced in that paragraph includes the Additional Protocol of 2022. This amendment does not change the substance of that paragraph.

The amendments to 8 CFR 208.30(e)(6) and (7) are effective at 12:01 a.m. on Saturday, March 25, 2023. The Department of State (''DOS'') will publish the Additional Protocol of 2022 on its website,[56] once effective, and noncitizens should refer to the DOS web page.

This rule does not otherwise alter the procedures applied to expedited removal proceedings, credible fear screenings, or threshold screening interviews as provided in the current regulations.

B. New 8 CFR 1003.42(h)(1) and (2) and 8 CFR 1240.11(g) (Heading), (g)(1) Through (4), and (h)(1)

DOJ is revising 8 CFR 1003.42(h)(1) in the paragraph heading, and throughout the text of the paragraph, by replacing ''arriving alien'' with ''applicant for admission'' and adding references to the Additional Protocol of 2022 to clarify that an immigration judge has no jurisdiction to review an asylum officer's determination that an applicant for admission is ineligible to apply for asylum pursuant to the STCA, which includes the Additional Protocol of 2022, formed under section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), and that the noncitizen should be returned to Canada to pursue the noncitizen's claim for asylum or other protection under the laws of Canada. DOJ is further amending the third sentence of the same paragraph by adding references to the Additional Protocol of 2022 and replacing ''arriving alien'' with ''applicant for admission'' to clarify that, in any case where an asylum officer has found that an applicant for admission qualifies for an exception to the STCA, which includes the Additional Protocol of 2022, or that the STCA, which includes the Additional Protocol of 2022, does not apply, an immigration judge has jurisdiction to review a negative credible fear finding made thereafter by the asylum officer. DOJ, in addition, is amending 8 CFR 1003.42(h)(2) to add a reference to the Additional Protocol of 2022. This amendment does not affect the substance of that paragraph. Under the amended provision, an immigration judge has no jurisdiction to review any determination by DHS that an alien being removed from Canada in transit through the United States should be returned to Canada to pursue asylum claims under Canadian law, under the terms of the STCA, which includes the Additional Protocol of 2022.

Next, DOJ is amending 8 CFR 1240.11(g) (heading) and (g)(1) by adding references to the Additional Protocol of 2022, with the effect that the STCA, which includes the Additional Protocol of 2022, will apply to noncitizens who are placed in section 240 removal proceedings, provided that they, on or after 12:01 a.m. on Saturday, March 25, 2023, enter the United States by crossing the U.S.-Canada land border between the POEs and claim a fear of persecution or torture within 14 days after such crossing. In appropriate cases, the immigration judge will determine whether, under that Agreement, which includes the Additional Protocol of 2022, the noncitizen should be returned to Canada, or whether the noncitizen should be permitted to pursue asylum or other protection claims in the United States.

DOJ is also amending 8 CFR 1240.11(g)(2)(i) and (ii) by adding references to the Additional Protocol of 2022, where appropriate, and to clarify that a noncitizen is ineligible to apply for asylum pursuant to section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), unless the immigration judge determines by a preponderance of the evidence that (1) the STCA, which includes the Additional Protocol of 2022, does not apply to the noncitizen or does not preclude the noncitizen from applying for asylum or other forms of protection in the United States; or (2) the noncitizen qualifies for an exception to the STCA, which includes the Additional Protocol of 2022, as set forth in 8 CFR 1240.11(g)(3).

DOJ is also amending 8 CFR 1240.11(g)(3) by adding references to the Additional Protocol of 2022, where appropriate, to clarify that the immigration judge shall apply the relevant regulations in deciding whether the noncitizen qualifies for any exception that would permit the United States to exercise authority over the noncitizen's asylum claim. The amendments further clarify that related exceptions are codified at 8 CFR 208.30(e)(6)(iii). The regulation continues to provide that the immigration judge shall not review, consider, or decide any issues pertaining to any discretionary determination of whether the noncitizen should be permitted to pursue an asylum claim in the United States because such discretionary public interest determinations are reserved to DHS. The amendments further clarify that a noncitizen in removal proceedings who is otherwise ineligible to apply for asylum under the STCA, which includes the Additional Protocol of 2022, may apply for asylum if DHS files a written notice in the proceedings before the immigration judge that it has decided in the public interest to allow the noncitizen to pursue claims for asylum or other related protection.

Next, DOJ is amending 8 CFR 1240.11(g)(4) by adding references to the Additional Protocol of 2022, where appropriate, to clarify the following provisions: first, a noncitizen who is found to be ineligible to apply for asylum under section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), is ineligible to apply for statutory withholding of removal and seek protection under the CAT; second, the noncitizen in this scenario may apply for any other relief from removal for which the noncitizen may be eligible; and third, if a noncitizen who is subject to the STCA, which includes the Additional Protocol of 2022, and section 208(a)(2)(A) of the INA, 8 U.S.C. 1158(a)(2)(A), is ordered removed, the noncitizen shall be ordered removed to Canada, in which case the noncitizen will be able to pursue their protection claim under the laws of Canada.

Finally, DOJ is amending 8 CFR 1240.11(h)(1) to add a reference to the Additional Protocol of 2022. This amendment does not affect the substance of that paragraph.

The amendments to 8 CFR 1003.42(h)(1) and (2) and 8 CFR 1240.11(g) (heading), and paragraphs (g)(1), (g)(2)(i) and (ii), (g)(3) and (4), and (h)(1) are effective at 12:01 a.m. on Saturday, March 25, 2023.

This rule does not otherwise alter the procedures applied to noncitizens in section 240 removal proceedings as provided in current regulations.

[56] *See* DOS, Treaties and Other International Acts Series (TIAS), *https://www.state.gov/tias/* (last visited Mar. 16, 2023).

V. Statutory and Regulatory Requirements

A. Administrative Procedure Act

The Administrative Procedure Act (''APA'') generally requires agencies to publish notice of a proposed rulemaking in the **Federal Register** and allow for a period of public comment. 5 U.S.C. 553(b). The APA also generally requires publication of a substantive rule not less than 30 days before its effective date. 5 U.S.C. 553(d). Agencies may forgo notice-and-comment rulemaking and a delayed effective date when the rulemaking involves ''a military or foreign affairs function of the United States.'' [57]

The Departments are bypassing notice-and-comment procedures and a delay in the effective date of the regulation because this rule involves a ''foreign affairs function of the United States.'' [58] The purpose of the foreign affairs exemption is to allow more cautious and sensitive consideration of those matters that affect relations with other Governments.[59] Courts have held that this exemption applies when the rule in question ''is clearly and directly involved in a foreign affairs function.'' [60] In addition, although the text of the APA does not expressly require an agency invoking this exemption to show that such procedures may result in ''definitely undesirable international consequences,'' some courts have required such a showing.[61] Under either formulation, a rule is covered by the foreign affairs exemption if, among other things, it directly involves activities or actions characteristic to the conduct of international relations.[62] Cooperative agreements regulating migration and immigration with other nations, such as the STCA and the Additional Protocol of 2022, are similar to the executive agreements that have previously been recognized as part of the executive powers that bear the characteristics of the conduct of international relations.[63] The use of the foreign affairs exemption is well established and has long been recognized by courts as applicable when a rule itself—as is the case with this rulemaking—implements an international agreement between the United States and another sovereign state.[64]

This rule falls under the foreign affairs exemption because it puts into effect the negotiated-and-signed Additional Protocol of 2022, which is supplementing the existing agreement between the Governments of the United States and Canada regarding migration issues and border management and, in particular, the management of the flow of asylum seekers. Furthermore, the Additional Protocol of 2022 implements United States foreign policy and fosters diplomatic relations with the Government of Canada by mutually supporting the integrity of each country's immigration system and aspects of the system specific to the U.S.-Canada border and regional migration management.[65]

In cases other than those involving the implementation of international agreements, certain courts have found that immigration matters typically implicate foreign affairs, but that not all immigration matters meet the APA's foreign affairs exemption.[66] In those cases, courts have evaluated not only whether agency action implicates foreign affairs broadly, but also whether the use of notice-and-comment procedures and a 30-day delay in the

[57] *See* 5 U.S.C. 553(a)(1).

[58] In 2004, when implementing the STCA, DHS and DOJ promulgated regulations through notice-and-comment rulemaking even though the rulemaking related to United States foreign affairs and the Departments could have asserted that exemption to the notice-and-comment requirement. At the time, however, the STCA had only been recently negotiated, and the regulations created a new regulatory framework to address the special terms of the STCA. The Departments thus made a discretionary decision that public comment could be beneficial. The Departments' 2004 decision does not obligate the Departments now to make the same decision with respect to this rulemaking. *See, e.g., Hoctor* v. *U.S. Dep't of Agric.,* 82 F.3d 165, 171–72 (7th Cir. 1996) (observing that there is nothing in the APA to forbid an agency to use notice-and-comment procedures even if not required under the APA and that courts should attach no weight to an agency's varied approaches involving similar rules); *see also Indep. Living Res.* v. *Or. Arena Corp.,* 982 F. Supp. 698, 744 n.62 (D. Or. 1997) (observing that agencies may voluntarily elect notice-and-comment procedures for a variety of reasons even though not required); *cf. Perez* v. *Mortg. Bankers Ass'n,* 575 U.S. 92, 101–02 (2015) (holding that agencies may ''grant additional procedural rights in the exercise of their discretion,'' including ''the right to notice and an opportunity to comment'' when not otherwise required by the APA, but also noting that ''reviewing courts are generally not free to impose them if the agencies have not chosen to grant them'' (quotation marks omitted)); *Malek-Marzban* v. *Immigr. & Naturalization Serv.,* 653 F.2d 113, 116 (4th Cir. 1981) (concluding that agencies are not estopped from asserting the foreign affairs exemption even if they routinely and voluntarily submitted policy decisions involving foreign affairs functions to rulemaking procedures in the past; the agencies' past actions do not restrict agencies' prerogatives when circumstances require swift action). Unlike in 2004, when the rulemaking created a completely new regulatory framework to implement the STCA, this rulemaking implements the terms of the Additional Protocol of 2022, which only expands the locations to which the STCA applies, while leaving in place the existing regulatory processes and procedures. Additionally, with this rulemaking, the Departments are implementing an existing international obligation and have determined that bypassing notice-and-comment procedures on the implementation of this foreign policy is warranted without seeking comments, for the reasons outlined in this rulemaking.

[59] *See, e.g., City of New York* v. *Permanent Mission of India to United Nations,* 618 F.3d 172, 175, 200–03 (2d Cir. 2010) (holding that a DOS notice establishing an exemption from real property taxes on property owned by foreign governments was properly promulgated without notice and comment under the foreign affairs exemption of the APA); *see also Am. Ass'n of Exps. & Imps. Textile & Apparel Grp.* v. *United States,* 751 F.2d 1239, 1249 (Fed. Cir. 1985).

[60] *Mast Indus.* v. *Regan,* 596 F. Supp. 1567, 1582 (C.I.T. 1984) (cleaned up).

[61] *See, e.g., Rajah* v. *Mukasey,* 544 F.3d 427, 437 (2d Cir. 2008).

[62] *See City of New York,* 618 F.3d at 201 (finding that a DOS notice related directly to foreign affairs); *see Capital Area Immigrants' Rights Coal.* v. *Trump,* 471 F. Supp. 3d 25, 53 (D.D.C. 2020) (''*CAIR*'') (observing that, for the foreign affairs exemption to apply, a rule must clearly and directly involve activities or actions characteristic to the conduct of international relations), *appeal dismissed as moot sub nom. I.A.* v. *Garland,* No. 20–5271, 2022 WL 696459 (D.C. Cir. Feb. 24, 2022).

[63] *See Am. Ins. Ass'n* v. *Garamendi,* 539 U.S. 396, 415 (2003) (recognizing that the President has authority to enter into executive agreements with other countries, requiring no ratification by the Senate or approval by Congress, and that this power has ''been exercised since the early years of the Republic''); *see also Sale* v. *Haitian Ctrs. Council, Inc.,* 509 U.S. 155, 188 (1993) (recognizing that immigration matters may involve foreign and military affairs for which the President has unique responsibility); *Toll* v. *Moreno,* 458 U.S. 1, 10 (1982) (''Our cases have long recognized the preeminent role of the Federal Government with respect to the regulation of [noncitizens] within our borders.''); *Truax* v. *Raich,* 239 U.S. 33, 42 (1915) (finding that ''[t]he authority to control immigration—to admit or exclude [noncitizens]—is vested solely in the Federal government'').

[64] *See Int'l Bhd. of Teamsters* v. *Peña,* 17 F.3d 1478, 1486 (D.C. Cir. 1994) (upholding a regulation published under the foreign affairs exemption of the APA and implementing an agreement between the United States and Mexico); *WBEN, Inc.* v. *United States,* 396 F.2d 601, 616 (2d Cir.1968) (finding that the foreign affairs exemption applied to Federal Communications Commission rule implementing an agreement between the United States and Canada that imposed power limits on pre-sunrise broadcasts); *CAIR,* 471 F. Supp. 3d at 54 (observing that ''the foreign affairs function exception plainly covers heartland cases in which a rule itself directly involves the conduct of foreign affairs,'' such as ''scenarios in which a rule implements an international agreement between the United States and another sovereign state'').

[65] *See* STCA Introductory statements (''RECOGNIZING and respecting the obligations of each Party under its immigration laws and policies; EMPHASIZING that the United States and Canada offer generous systems of refugee protection, recalling both countries' traditions of assistances to refugees and displaced persons abroad, consistent with the principles of international solidarity that underpin the international refugee protection system, and committed to the notion that cooperation and burden-sharing with respect to refugee status claimants can be enhanced; . . . CONVINCED . . . that agreements among states may enhance the international protection of refugees by promoting the orderly handling of asylum applications by the responsible party and the principle of burden-sharing . . . .'').

[66] *See Yassini* v. *Crosland,* 618 F.2d 1356, 1360 n.4 (9th Cir. 1980) (stating that ''[t]he foreign affairs exception would become distended if applied to [former Immigration and Naturalization Service] actions generally, even though immigration matters typically implicate foreign affairs'').

effective date would ''provoke definitely undesirable international consequences.'' [67] Here, a delay in implementation of the Additional Protocol of 2022 created by notice-and-comment rulemaking and a delayed effective date would lead to undesirable international consequences by jeopardizing not only the goals of the Additional Protocol of 2022, but also the United States diplomatic relationship with Canada and the credibility of the United States as a negotiating partner on migration issues.

The Additional Protocol of 2022 and these implementing regulations further the United States foreign policy goal of collaborating with one of our closest allies, partners, and neighbors, as demonstrated by the joint public statements made by the Governments of Canada and the United States in the Roadmap for a Renewed U.S.-Canada Partnership [68] and the 2021 and 2023 NALS.[69] Implementing these regulations without delay supports international cooperation and reaffirms the United States commitment, as reflected in the Additional Protocol of 2022, to manage migration by deterring migration through irregular pathways and promoting the orderly handling of asylum seekers.[70] Because each government under the Additional Protocol of 2022 can expeditiously return an asylum applicant who crosses between POEs, just as occurs now at POEs under existing regulations, implementing the Additional Protocol of 2022 through these regulations furthers the shared United States and Canadian policy goal of reducing incentives for individuals to cross the shared border between POEs and to circumvent legal pathways, including existing legal channels for humanitarian protection. Through the Additional Protocol of 2022 and its implementation, both countries proactively and preventatively address situations that may lead to significant draws of asylum seekers between POEs to either the United States or Canada. Thus, the Additional Protocol of 2022 is an important element of both countries' ability to manage their shared border and maintain the integrity of their respective legal immigration and refugee and asylum protection policies.

In light of the expressed commitment and acknowledgement of shared responsibility by the United States Government to adopt an ambitious and comprehensive approach to safe, orderly, and humane migration management, as evidenced in joint public statements,[71] it is critical that the United States Government act upon its commitment. Delaying the implementation of this rulemaking to pursue notice and comment could create doubt in Canada, and potentially other future partners, about whether the United States has sufficient flexibility and capacity to carry out agreements in accordance with its declared commitments.[72] Therefore, this agreement should be implemented rapidly by amending the regulatory framework through this rule, in light of the President's renewed foreign policy commitment and the longstanding U.S.-Canada relationship.[73]

In sum, the importance of promptly and faithfully implementing an international agreement requires publishing this final rule without notice and comment and without delaying the effective date of the rule. Any delay in implementing the Additional Protocol of 2022 caused by notice-and-comment procedures or by a delayed effective date could have a detrimental impact on meeting United States foreign policy objectives, on diplomatic relations with Canada, and on the credibility of the United States as a migration partner overall.[74]

B. Executive Order 12866 (Regulatory Planning and Review) and Executive Order 13563 (Improving Regulation and Regulatory Review)

Although this rule pertains to a foreign affairs function of the United States and therefore falls outside the scope of Executive Order 12866, the Departments voluntarily submitted the rule to the Office of Information and Regulatory Affairs of the Office of Management and Budget (''OMB'') for review, and OMB reviewed the rule on an expedited basis as though it were a significant regulatory action under section 3(f)(4) of that Executive Order.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act, Public Law 96–354, 94 Stat. 1164 (1980), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, 110 Stat. 857, 864 (1996) (codified at 5 U.S.C. 601 *et seq.*), requires an agency to prepare and make available to the public a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). A regulatory flexibility analysis is not required when a rule is not subject to notice-and-comment rulemaking.

D. Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted for inflation), and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under

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[67] *See E. Bay Sanctuary Covenant* v. *Biden,* 993 F.3d 640, 676 (9th Cir. 2021) (stating that, for the foreign affairs exemption to apply, the public rulemaking provisions should provoke definitely undesirable international consequences); *see also City of New York,* 618 F.3d at 202 (''In short, while a case-by-case determination that public rule making would provoke 'definitely undesirable international consequences,' may well be necessary before the foreign affairs exception is applied to areas of law like immigration that only indirectly implicate international relations, quintessential foreign affairs functions such as diplomatic relations and the regulation of foreign missions are different. Such actions clearly and directly involve a foreign affairs function'' (some quotation marks omitted)); *Rajah,* 544 F.3d at 437 (recognizing that multiple undesirable consequences could follow from notice-and-comment rulemaking, including impaired relations with other countries if the government were to conduct and resolve a public debate on matters affecting the other country).

[68] *See* White House, Roadmap.

[69] *See* White House, Building Back Better Together.; *see also* White House, Fact Sheet; White House, Los Angeles Declaration.

[70] The Departments also believe that promoting orderly handling of asylum claims may reduce the possibility for success in forum shopping.

[71] *See* White House, Building Back Better Together; *see also* White House, Roadmap; White House, Fact Sheet; White House, Los Angeles Declaration.

[72] *See E. Bay Sanctuary Covenant,* 993 F.3d at 676 (explaining that the ''[u]se of the exception is generally permissible where the international consequences of the rule-making requirements are obvious or thoroughly explained''); *Am. Ass'n of Exps. & Imps. Textile & Apparel Grp.,* 751 F.2d at 1249 (finding that the foreign affairs exemption facilitates ''more cautious and sensitive consideration of those matters which 'so affect relations with other Governments that . . . public rule-making provisions would provoke definitely undesirable international consequences''' (quoting H.R. Rep. No. 69–1980, at 23 (1946)).

[73] *See Rajah,* 544 F.3d at 437 (observing that the notice-and-comment process can be ''slow and cumbersome,'' which can negatively affect efforts to secure U.S. national interests, thereby justifying application of foreign affairs exemption); *Am. Ass'n of Exps. & Imps. Textile & Apparel Grp.,* 751 F.2d at 1249 (''The timing of an announcement of new consultations or quotas may be linked intimately with the Government's overall political agenda concerning relations with another country. Were we to require that CITA provide notice thirty days before they take [e]ffect, the President's power to conduct foreign policy would plainly be hampered.'').

[74] As explained in this section, the United States and Canada negotiated the Additional Protocol of 2022 in the context of broader discussions to increase U.S.-Canadian cooperation on hemispheric migration, to enhance information sharing in support of each country's immigration-related decision-making process, and to expand collaboration in the region to deter irregular migration at the source and in transit countries. Expeditious implementation of the Additional Protocol of 2022 underscores the U.S.'s commitment to these imperatives and avoids possible undesirable international consequences.

the provisions of the Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48; *see also* 2 U.S.C. 1532(a).

E. Congressional Review Act

This final rule is not a major rule as defined by section 804 of the legislation commonly known as the Congressional Review Act (''CRA''), *see* Public Law 104–121, sec. 251, 110 Stat. 847, 868 (1996) (codified in relevant part at 5 U.S.C. 804). This rule will not 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 on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. DHS and DOJ have complied with the CRA's reporting requirements and have sent this rule to Congress and to the Comptroller General as required by 5 U.S.C. 801(a)(1). Because of this submission; because this rule is not a major rule; and because the foreign affairs exemption in the APA applies to this rule, this rule does not have a delayed effective date. *See* 5 U.S.C. 801(a)(4).

F. Executive Order 13132 (Federalism)

This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

G. Executive Order 12988 (Civil Justice Reform)

This final rule was drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule was written to provide a clear legal standard for affected conduct and was reviewed carefully to eliminate drafting errors and ambiguities so as to minimize litigation and undue burden on the Federal court system. The Departments have determined that this proposed rule meets the applicable standards provided in section 3 of Executive Order 12988.

H. Family Assessment

The Departments have reviewed this rule in line with the requirements of section 654 of the Treasury and General Government Appropriations Act, 1999,[75] enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999.[76] The Departments have systematically reviewed the criteria specified in section 654(c)(1), by evaluating whether this regulatory action: (1) impacts the stability or safety of the family, particularly in terms of marital commitment; (2) impacts the authority of parents in the education, nurture, and supervision of their children; (3) helps the family perform its functions; (4) affects disposable income or poverty of families and children; (5) has a sufficient justification for any financial impact on families; (6) may be carried out by State or local government or by the family; or (7) establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth and the norms of society. If an agency determines a regulation may negatively affect family wellbeing, then the agency must provide an adequate rationale for its implementation.

The Additional Protocol of 2022 expands the applicability of the STCA, but otherwise leaves in place all existing policies, procedures, and safeguards provided by the current regulations implementing the STCA. The Departments have therefore determined that the implementation of this rule will not negatively affect family wellbeing and will not have any impact on the autonomy or integrity of the family as an institution.

I. Executive Order 13175 (Consultation and Coordination With Indian Tribal Governments)

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

J. National Environmental Policy Act

DHS and its components analyze actions to determine whether the National Environmental Policy Act, Public Law 91–190, 83 Stat. 852 (1970) (codified at 42 U.S.C. 4321 *et seq.*) (''NEPA''), applies to them and, if so, what degree of analysis and documentation is required. DHS Directive 023–01 Rev. 01[77] and Instruction Manual 023–01–001–01 Rev. 01 (''Instruction Manual'')[78] establish the policies and procedures that DHS and its components use to comply with the NEPA and the Council on Environmental Quality (''CEQ'') regulations for implementing the procedural requirements of NEPA. The CEQ regulations allow Federal agencies to establish, in their NEPA implementing procedures, with CEQ review and concurrence, categories of actions (''categorical exclusions'') that experience has shown normally do not, individually and cumulatively, have a significant effect on the human environment and, therefore, do not require preparation of an environmental assessment or environmental impact statement.[79] 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 of the 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.[80]

This final rule amends existing DHS and DOJ regulations at 8 CFR 208.30(e)(6) and (7), 8 CFR 1003.42(h)(l1) and (2), and 8 CFR 1240.11(g) by incorporating modifications recently negotiated by the Government of the United States and the Government of Canada to specific terms of the STCA in the Additional Protocol of 2022. The STCA permits the respective governments to manage which government decides certain noncitizens' requests for protection from persecution or torture; correspondingly, under section 208(a)(2)(A) of the INA, 8 U.S.C. 1182(a)(2)(A), and section 240 of the INA, 8 U.S.C. 1229a, the Departments apply the threshold screening requirement outlined in 8 CFR 208.30(e)(6), 8 CFR 1003.42(h) and 8 CFR 1240.11(g)(1) through (4) and pursuant to domestic implementation of

[75] *See* 5 U.S.C. 601 note.

[76] Public Law 105–277, 112 Stat. 2681, 2681–528 (1998).

[77] DHS, Implementation of the National Environmental Policy Act, Directive 023–01 (Oct. 31, 2014), *https://www.dhs.gov/sites/default/files/publications/DHS_Directive%20023-01%20Rev%2001_508compliantversion.pdf.*

[78] DHS, Instruction Manual 023–01–001–01, Revision 01, Implementation of the National Environmental Policy Act (NEPA) (Nov. 6, 2014), *https://www.dhs.gov/sites/default/files/publications/DHS_Instruction%20Manual%20023-01-001-01%20Rev%2001_508%20Admin%20Rev.pdf.*

[79] *See* 40 CFR 1501.4, 1507.3(e)(2)(ii), 1508.1(d).

[80] *See* Instruction Manual sec. V.B(2)(a)–(c).

this international treaty obligation to determine whether they should adjudicate a noncitizen's claim for asylum or other protection claim relating to persecution or torture. The STCA, as originally negotiated, did not include those noncitizens seeking entry into the United States between the official POEs (to include certain bodies of waters as mutually designated by the United States and Canada) and who make an asylum or other protection claim within 14 days after such crossing. Upon implementation of the Additional Protocol of 2022 in each respective country, and upon the effective date of this rule at 12:01 a.m. on Saturday, March 25, 2023, the threshold screening requirement will also apply to noncitizens who cross the U.S.-Canada land border between the official POEs and make an asylum or other protection claim relating to persecution or torture within 14 days after such crossing.

The Departments are not aware of any significant impact on the environment, or any change in environmental effect that will result from the amendments being promulgated in this Final Rule. Furthermore, the Departments have determined that this rule clearly fits within categorical exclusion A3 in the Instruction Manual. The rule is applied prospectively.

This final rule addresses specific threshold screening requirements as negotiated in the Additional Protocol of 2022 and is not part of a larger action. In accordance with its NEPA implementing procedures, the Departments find no extraordinary circumstances associated with this final rule that may give rise to significant environmental effects requiring further analysis and documentation. Therefore, this action is categorically excluded, and no further NEPA analysis or documentation is required.

K. Paperwork Reduction Act

This rule does not propose new, or revisions to existing, ''collection[s] of information'' as that term is defined under the Paperwork Reduction Act of 1995, Public Law 104–13, 109 Stat. 163 (codified at 44 U.S.C. chapter 35), and its implementing regulations, 5 CFR part 1320.

List of Subjects

8 CFR Part 208

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 1003

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Reporting and recordkeeping requirements.

8 CFR Part 1240

Administrative practice and procedure, Aliens.

Regulatory Amendments

DEPARTMENT OF HOMELAND SECURITY

Accordingly, for the reasons set forth in this preamble, DHS amends part 208 of chapter I of the title 8 of the Code of Federal Regulations as follows:

PART 208—PROCEDURES FOR ASYLUM AND WITHHOLDING OF REMOVAL

■ 1. The authority citation for 8 CFR part 208 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1158, 1226, 1252, 1282; Title VII of Pub. L. 110–229; 8 CFR part 2; Pub. L. 115–218.

■ 2. Amend § 208.30 by revising paragraphs (e)(6) introductory text, (e)(6)(i) through (iii), and (e)(7) to read as follows:

§ 208.30 Credible fear determinations involving stowaways and applicants for admission found inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the Act.

* * * * *

(e) * * *

(6) Prior to any determination concerning whether an alien arriving in the United States at a U.S.-Canada land border port-of-entry or in transit through the United States during removal by Canada or an alien who, on or after 12:01 a.m. on Saturday, March 25, 2023, entered the United States by crossing the U.S.-Canada land border between the ports-of-entry, including a crossing of the border in those waters as mutually designated by the United States and Canada, and who made an asylum or other protection claim relating to fear of persecution or torture within 14 days after such crossing, has a credible fear of persecution or torture, the asylum officer shall conduct a threshold screening interview to determine whether such an alien is ineligible to apply for asylum pursuant to section 208(a)(2)(A) of the Act and subject to removal to Canada by operation of the Agreement Between the Government of the United States and the Government of Canada for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries (''Agreement''), which includes the Additional Protocol of 2022 to the Agreement Between the Government of the United States of America and the Government of Canada For Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries (''Additional Protocol of 2022''). In conducting this threshold screening interview, the asylum officer shall apply all relevant interview procedures outlined in paragraph (d) of this section, provided however, that paragraph (d)(2) of this section shall not apply to aliens described in this paragraph (e)(6). The asylum officer shall advise the alien of the exceptions contained in the Agreement, which includes the Additional Protocol of 2022, and question the alien as to applicability of any of these exceptions to the alien's case.

(i) If the asylum officer, with concurrence from a supervisory asylum officer, determines that an alien is subject to the Agreement, which includes the Additional Protocol of 2022, and that an alien does not qualify for an exception under the Agreement, which includes the Additional Protocol of 2022, during this threshold screening interview, the alien is ineligible to apply for asylum in the United States. After the asylum officer's documented finding is reviewed by a supervisory asylum officer, the alien shall be advised that the alien will be removed to Canada in order to pursue the alien's claims relating to a fear of persecution or torture under Canadian law. Aliens found ineligible to apply for asylum under this paragraph shall be removed to Canada.

(ii) If the alien establishes by a preponderance of the evidence that the alien qualifies for an exception under the terms of the Agreement, which includes the Additional Protocol of 2022, the asylum officer shall make a written notation of the basis of the exception, and then proceed immediately to a determination concerning whether the alien has a credible fear of persecution or torture under paragraph (d) of this section.

(iii) An alien qualifies for an exception to the Agreement, which includes the Additional Protocol of 2022, if the alien is not being removed from Canada in transit through the United States and:

(A) Is a citizen of Canada or, not having a country of nationality, is a habitual resident of Canada;

(B) Has in the United States a spouse, son, daughter, parent, legal guardian, sibling, grandparent, grandchild, aunt, uncle, niece, or nephew who has been granted asylum, refugee, or other lawful status in the United States, provided, however, that this exception shall not

apply to an alien whose relative maintains only nonimmigrant visitor status, as defined in section 101(a)(15)(B) of the Act, or whose relative maintains only visitor status based on admission to the United States pursuant to the Visa Waiver Program;

(C) Has in the United States a spouse, son, daughter, parent, legal guardian, sibling, grandparent, grandchild, aunt, uncle, niece, or nephew who is at least 18 years of age and has an asylum application pending before U.S. Citizenship and Immigration Services, the Executive Office for Immigration Review, or on appeal in federal court in the United States;

(D) Is unmarried, under 18 years of age, and does not have a parent or legal guardian in either Canada or the United States;

(E) Arrived in the United States with a validly issued visa or other valid admission document, other than for transit, issued by the United States to the alien, or, being required to hold a visa to enter Canada, was not required to obtain a visa to enter the United States; or

(F) The Director of USCIS, or the Director's designee, determines, in the exercise of unreviewable discretion, that it is in the public interest to allow the alien to pursue a claim for asylum, withholding of removal, or protection under the Convention Against Torture, in the United States.

* * * * *

(7) When an immigration officer has made an initial determination that an alien, other than an alien described in paragraph (e)(6) of this section and regardless of whether the alien is arriving at a port of entry, appears to be subject to the terms of an agreement authorized by section 208(a)(2)(A) of the Act, and seeks the alien's removal consistent with that provision, prior to any determination concerning whether the alien has a credible fear of persecution, reasonable possibility of persecution, or a reasonable possibility of torture, the asylum officer shall conduct a threshold screening interview to determine whether the alien is ineligible to apply for asylum in the United States and is subject to removal to a country (''receiving country'') that is a signatory to the applicable agreement authorized by section 208(a)(2)(A) of the Act, other than the U.S.-Canada Agreement, which includes the Additional Protocol of 2022. In conducting this threshold screening interview, the asylum officer shall apply all relevant interview procedures outlined in paragraph (d) of this section, except that paragraphs (d)(2) and (4) of this section shall not apply to aliens described in this paragraph (e)(7). The asylum officer shall advise the alien of the applicable agreement's exceptions and question the alien as to applicability of any of these exceptions to the alien's case. The alien shall be provided written notice that if the alien fears removal to the prospective receiving country because of the likelihood of persecution on account of a protected ground or torture in that country and wants the officer to determine whether it is more likely than not that the alien would be persecuted on account of a protected ground or tortured in that country, the alien should affirmatively state to the officer such a fear of removal. If the alien affirmatively states such a fear, the asylum officer will determine whether the individual has demonstrated that it is more likely than not that the alien would be persecuted on account of a protected ground or tortured in that country.

* * * * *

DEPARTMENT OF JUSTICE

Accordingly, for the reasons set forth in this preamble, the Attorney General amends parts 1003 and 1240 of chapter V of title 8 of the Code of Federal Regulations as follows:

PART 1003—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

■ 3. The authority citation for 8 CFR part 1003 continues to read as follows:

Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1003, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1254a, 1255, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg. Plan No. 2 of 1950; 3 CFR, 1949–1953 Comp., p.1002; section 203 Pub. L. 105–100, 111 Stat 2196–200; sections 1506 and 1510 of Pub. L. 106–308, 114 Stat. 1527–29, 1531–32; section 1505 of Pub. L. 106–554, 114 Stat. 2763A–326 to –328.

■ 4. Amend § 1003.42 by revising paragraphs (h)(1) and (2) to read as follows:

§ 1003.42 Review of credible fear determinations.

* * * * *

(h) *Safe Third Country Agreement*—(1) *Applicants for admission, 2002 U.S.-Canada Agreement, which includes the Additional Protocol of 2022.* An immigration judge has no jurisdiction to review a determination by an asylum officer that an applicant for admission is not eligible to apply for asylum pursuant to the 2002 U.S.-Canada Agreement, which includes the Additional Protocol of 2022, formed under section 208(a)(2)(A) of the Act and should be returned to Canada to pursue their claims for asylum or other protection under the laws of Canada. See 8 CFR 208.30(e)(6). However, in any case where an asylum officer has found that an applicant for admission qualifies for an exception to that Agreement, which includes the Additional Protocol of 2022, or that the Agreement, which includes the Additional Protocol of 2022, does not apply, an immigration judge does have jurisdiction to review a negative credible fear finding made thereafter by the asylum officer as provided in this section.

(2) *Aliens in transit.* An immigration judge has no jurisdiction to review any determination by DHS that an alien being removed from Canada in transit through the United States should be returned to Canada to pursue asylum claims under Canadian law, under the terms of the 2002 U.S.-Canada Agreement, which includes the Additional Protocol of 2022.

* * * * *

PART 1240—PROCEEDINGS TO DETERMINE REMOVABILITY OF ALIENS IN THE UNITED STATES

■ 5. The authority citation for part 1240 continues to read as follows:

Authority: 8 U.S.C. 1103, 1158, 1182, 1186a, 1186b, 1225, 1226, 1227, 1228, 1229a, 1229b, 1229c, 1252 note, 1361, 1362; secs. 202 and 203, Pub. L. 105–100 (111 Stat. 2160, 2193); sec. 902, Pub. L. 105–277 (112 Stat. 2681).

■ 6. Amend § 1240.11 by revising paragraphs (g) and (h)(1) to read as follows:

§ 1240.11 Ancillary matters, applications.

* * * * *

(g) *U.S.-Canada safe third country agreement, which includes the Additional Protocol of 2022.* (1) The immigration judge has authority to apply section 208(a)(2)(A) of the Act, relating to a determination that an alien may be removed to Canada pursuant to the 2002 U.S.-Canada Agreement (''Agreement''), in the case of an alien who is subject to the terms of the Agreement, which includes the Additional Protocol of 2022, and is placed in proceedings pursuant to section 240 of the Act. In an appropriate case, the immigration judge shall determine whether under that Agreement, which includes the Additional Protocol of 2022, the alien should be returned to Canada, or whether the alien should be permitted to pursue asylum or other protection in the United States.

(2) An alien described in paragraph (g)(1) of this section is ineligible to

apply for asylum, pursuant to section 208(a)(2)(A) of the Act, unless the immigration judge determines, by preponderance of the evidence, that:

(i) The Agreement, which includes the Additional Protocol of 2022, does not apply to the alien or does not preclude the alien from applying for asylum in the United States; or

(ii) The alien qualifies for an exception to the Agreement, which includes the Additional Protocol of 2022, as set forth in paragraph (g)(3) of this section.

(3) The immigration judge shall apply the applicable regulations in deciding whether the alien qualifies for any exception under the Agreement, which includes the Additional Protocol of 2022, that would permit the United States to exercise authority over the alien's asylum claim. The exceptions under the Agreement, which includes the Additional Protocol of 2022, are codified at 8 CFR 208.30(e)(6)(iii). The immigration judge shall not review, consider, or decide any issues pertaining to any discretionary determination on whether the alien should be permitted to pursue an asylum claim in the United States notwithstanding the general terms of the Agreement, which includes the Additional Protocol of 2022, as such discretionary public interest determinations are reserved to DHS. However, an alien in removal proceedings who is otherwise ineligible to apply for asylum under the Agreement, which includes the Additional Protocol of 2022, may apply for asylum if DHS files a written notice in the proceedings before the immigration judge that it has decided in the public interest to allow the alien to pursue claims for asylum or withholding of removal.

(4) An alien who is found to be ineligible to apply for asylum under section 208(a)(2)(A) of the Act is ineligible to apply for withholding of removal pursuant to section 241(b)(3) of the Act and the Convention Against Torture. However, the alien may apply for any other relief from removal for which the alien may be eligible. If an alien who is subject to the Agreement, which includes the Additional Protocol of 2022, and section 208(a)(2)(A) of the Act is ordered removed, the alien shall be ordered removed to Canada, in which the alien will be able to pursue his or her claims for asylum or protection against persecution or torture under the laws of Canada

(h) * * *.

(1) The immigration judge has authority to apply section 208(a)(2)(A) of the Act, relating to a determination that an alien may be removed to a third country pursuant to a bilateral or multilateral agreement—other than the 2002 U.S.-Canada Agreement, which includes the Additional Protocol of 2022—in the case of an alien who is subject to the terms of the relevant agreement and is placed in proceedings pursuant to section 240 of the Act. In an appropriate case, the immigration judge shall determine whether under the relevant agreement the alien should be removed to the third country, or whether the alien should be permitted to pursue asylum or other protection claims in the United States. If more than one agreement applies to the alien and the alien is ordered removed, the immigration judge shall enter alternate orders of removal to each relevant country.

* * * * *

Alejandro N. Mayorkas,

Secretary, U.S. Department of Homeland Security,

Dated: March 22, 2023.

Merrick B. Garland,

Attorney General, U.S. Department of Justice.

[FR Doc. 2023–06351 Filed 3–24–23; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–1161; Airspace Docket No. 22–ASO–18]

RIN 2120–AA66

Amendment of Class D and Class E Airspace; Greenville, Spartanburg, and Greer, SC

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface in the Greenville, Spartanburg, and Greer, SC areas due to the decommissioning of the Fairmont non-directional beacon (NDB) and cancellation of associated approaches into Spartanburg Downtown Memorial Airport/Simpson Field, as well as updating the airport's name and geographic coordinates. Additionally, this action updates the name, geographic coordinates, and airspace of Greenville Spartanburg International Airport, Greenville Downtown Airport, and Donaldson Field Airport. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, June 15, 2023. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FAA Order JO 7400.11G, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone: (404) 305–6364.

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 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 amends airspace in Greenville, Spartanburg, and Greer, SC, to support IFR operations in the area.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2022–1161 in the **Federal Register** (87 FR 66636, November 4, 2022) to amend Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface in the Greenville, Spartanburg, and Greer, SC areas, as well as updating the

airport's name and geographic coordinates. Additionally, Greenville Spartanburg International Airport, Greenville Downtown Airport, and Donaldson Field Airport each require name and geographic coordinate updates, as well as airspace updates. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Incorporation by Reference

Class D airspace designations are published in paragraph 5000, and Class E airspace designations are published in paragraphs 6002 and 6005 of FAA Order JO 7400.11, Airspace Designations and Reporting Points, which is incorporated by reference in 14 CFR 71.1 on an annual basis. This document amends the current version of that order, FAA Order JO 7400.11G, dated August 19, 2022, and effective September 15, 2022. FAA Order JO 7400.11G is publicly available as listed in the **ADDRESSES** section of the document. These amendments will be published in the next update to FAA Order JO 7400.11.

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

The Rule

This action amends 14 CFR part 71 by amending Class D airspace, Class E surface airspace, and Class E airspace extending upward from 700 feet above the surface in the Greenville, Spartanburg, and Greer, SC area due to the decommissioning of the Fairmont NDB and cancellation of associated approaches into Spartanburg Downtown Memorial Airport/Simpson Field (formerly Spartanburg Downtown Memorial Airport). The Class D airspace for Greenville Spartanburg International Airport is increased to 4.5 miles (previously 4.4 miles), and the geographic coordinates are updated to coincide with the FAA's database. This action also removes the southwest extension of the Class E surface airspace for Spartanburg Downtown Memorial Airport/Simpson Field due to the cancellation of the NDB approaches and updates the airport's name and geographic coordinates to coincide with the FAA's database, and removes the city name from airspace header per order FAA 7400.2. Additionally, this action also updates the airport names of the following airports: Greenville Spartanburg International Airport (formerly Greenville-Spartanburg Airport) and Donaldson Field Airport (formerly Donaldson Center Airport), as well as the geographic coordinates of both airports. Finally, this action replaces the outdated terms Airport/Facility Directory with the term Chart Supplement and Notice to Airmen with the term Notice to Air Missions in the airspace descriptions.

Regulatory Notices and Analyses

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

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a.

This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant the preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D Airspace.

* * * * *

ASO SC D Greenville, SC [Amended]

Greenville Downtown Airport, SC
(Lat. 34°50′53″ N, long. 82°21′00″ W)
Greenville-Spartanburg International Airport
(Lat. 34°53′44″ N, long. 82°13′08″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.5-mile radius of Greenville Downtown Airport, excluding that airspace within the Greenville-Spartanburg International Airport, Class C airspace area. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Air Missions. The effective days and times will thereafter be continuously published in the Chart Supplement.

ASO SC D Greenville Donaldson Field Airport, SC [Amended]

Greenville, Donaldson Field Airport, SC
(Lat. 34°45′30″ N, long. 82°22′35″ W)
Greenville Downtown Airport
(Lat. 34°50′53″ N, long. 82°21′00″ W)
Greenville-Spartanburg International Airport
(Lat. 34°53′44″ N, long. 82°13′08″ W)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.2-mile radius of Donaldson Field Airport, excluding that airspace within the Greenville Downtown Airport Class D airspace area and excluding that airspace within the Greenville-Spartanburg International Airport Class C airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Surface Airspace.

* * * * *

ASO SC E2 Greer, Greenville-Spartanburg International Airport, SC [Amended]

Greenville-Spartanburg International Airport, SC
(Lat. 34°53′44″ N, long. 82°13′08″ W)

That airspace extending upwards from the surface within a 5-mile radius of the Greenville-Spartanburg International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

ASO SC E2 Spartanburg, SC [Amended]

Spartanburg Downtown Memorial Airport/Simpson Field, SC
(Lat. 34°54′59″ N, long. 81°57′21″ W)
Spartanburg VORTAC
(Lat. 35°02′01″ N, long. 81°55′37″ W)

That airspace extending upwards from the surface within a 4.3-mile radius of Spartanburg Downtown Memorial Airport/

Simpson Field and within 1.8 miles each side of Spartanburg VORTAC 192° radial, extending from the 4.3-mile radius to the VORTAC, excluding the portion within the Greenville-Spartanburg International Airport, SC, Class C airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Air Missions. The effective date and time will thereafter be continuously published in the Chart Supplement.

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

* * * * *

ASO SC E5 Greenville, SC [Amended]

Greenville Downtown Airport, SC
(Lat. 34°50′53″ N, long. 82°21′00″ W)
Greenville-Spartanburg International Airport
(Lat. 34°53′44″ N, long. 82°13′08″ W)
Donaldson Field Airport
(Lat. 34°45′30″ N, long. 82°22′35″ W)
DYANA NDB
(Lat. 34°41′28″ N, long. 82°26′37″ W)

That airspace extending upward from 700 feet above the surface within a 9.3-mile radius of Greenville Downtown Airport, and within a 10-mile radius of Greenville-Spartanburg International Airport, and within a 6.7-mile radius of Donaldson Field Airport and within 4 miles northwest and 8 miles southeast of the 224° bearing from the DYANA NDB extending from the 6.7-mile radius to 16 miles southwest of Donaldson Field Airport.

ASO SC E5 Spartanburg, SC

Spartanburg Downtown Memorial Airport/ Simpson Field, SC
(Lat. 34°54′59″ N, long. 81°57′21″ W)
Spartanburg VORTAC
(Lat. 35°02′01″ N, long. 81°55′37″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Spartanburg Downtown Memorial Airport/ Simpson Field and within 3.1 miles each side of Spartanburg VORTAC 012° radial, extending from the 7-mile radius to 7 miles north of the VORTAC and within 2 miles each side of Spartanburg localizer southwest course, extending from the 7-mile radius to 15.1 miles south of the VORTAC.

Issued in College Park, Georgia, on March 22, 2023

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2023–06326 Filed 3–27–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF STATE

22 CFR Part 22

[Public Notice: 11954]

RIN 1400–AF33

Schedule of Fees for Consular Services—Nonimmigrant and Special Visa Fees

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This rule adopts as final adjustments to the Schedule of Fees for Consular Services (Schedule of Fees) for several nonimmigrant visa (NIV) application processing fees and the Border Crossing Card (BCC) for Mexican citizens age 15 and over. These adjustments are based on the findings of the most recently approved update to the Cost of Service Model (CoSM) and incorporate revised projections for nonimmigrant visa demand. This rule also addresses public comments received by the Department on the originally proposed fee recommendations found in the notice of proposed rulemaking (NPRM).

DATES: This final rule is effective on May 30, 2023.

FOR FURTHER INFORMATION CONTACT: Johanna Cruz, Management Analyst, Office of the Comptroller, Bureau of Consular Affairs, Department of State; phone: 202–485–8915; email: *fees@state.gov.*

SUPPLEMENTARY INFORMATION:

Background

This rule makes changes to the Schedule of Fees, found at 22 CFR 22.1. The Department generally sets and collects fees for consular services based on the concept of full cost recovery to the U.S. Government. The Department's CoSM uses an Activity-Based Costing (ABC) methodology to calculate annually the direct and indirect costs to the U.S. Government associated with each consular good and service the Department provides. The CoSM provides a comprehensive and detailed look at all consular services as well as all services that the Department performs for other agencies in connection with its consular operations. Fees are based on these cost estimates and the Department aims to update the Schedule of Fees biennially unless a significant change in costs warrants an immediate recommendation to amend the Schedule.

The most recently approved update to the CoSM indicated that fee increases were needed to fully recover the costs of providing several categories of NIV services. As a result, the Department published an NPRM in the **Federal Register** on December 29, 2021 (86 FR 74018), for a 60-day public comment period that ended on February 28, 2022. The NPRM proposed the following increases:

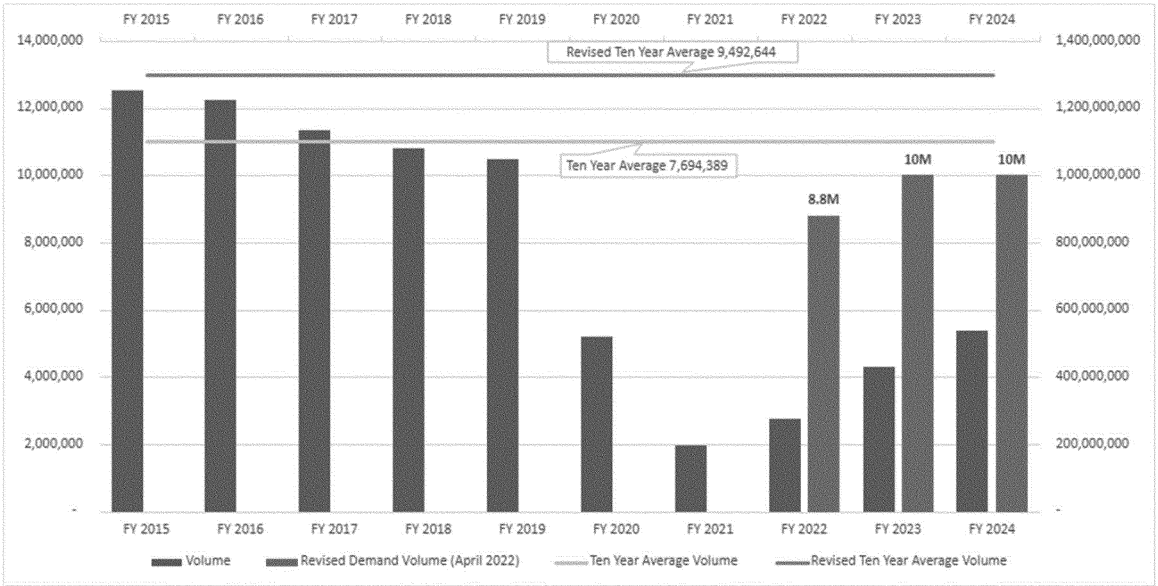
- The application processing fee for non-petition-based nonimmigrant visas (except E category), from $160 to $245;
- The application processing fee for H, L, O, P, Q, and R category nonimmigrant visas, from $190 to $310;
- The application processing fee for E category nonimmigrant visas, from $205 to $485;
- The processing fee for BCCs for Mexican citizens age 15 and over from $160 to $245: and
- The fee for waiver of the two-year residency requirement for exchange visitors, from $120 to $510.

As discussed in more depth in the NPRM, the unit costs that inform the recommended fees for each NIV service were calculated by taking the total cost of each service and dividing by the 10-year average number of receipts (*i.e.,* demand) for that service.

The fee increases that will be implemented as a result of this final rule are smaller than those proposed in the NPRM due to revised projections for fiscal year (FY) 2022–2024 demand. The CoSM uses historical workloads as well as projected future workloads to calculate demand for each service. Projecting future demand is extremely difficult because travel for both U.S. citizens and foreign nationals can change quickly and dramatically, as demonstrated by the COVID–19 pandemic. Therefore, the current model update applied a 10-year average for workload volumes for NIVs, using historic workload actuals from FYs 2015–2019 and projected workload volumes for FYs 2020–2024. Using a 10-year average helped minimize the impact of demand volatility on unit cost calculations. Recognizing that actual demand will always vary, this practical approach helped to stabilize fees at an amount sufficient to recover costs with only a modest increase to the consumer. *See* 86 FR 74018, 74020–21.

The fee increases proposed in the NPRM were based on a 10-year average of 7.7 million NIVs of all classes per year. After the NPRM was issued, however, it became apparent that demand for NIVs was rebounding significantly faster than previously anticipated and that actual demand would exceed the projected volume in the NPRM. The Department therefore decided to recalculate demand before moving forward with the final rule to ensure that it did not implement fees in

excess of its actual costs. In its revised analysis, the Department included historic actual workload amounts for FY2015–2021 (rather than FY2015–2019 as in the original recommendations) and revised projected workload amounts for FY2022–2024. As with the original calculations, the Department divided the total actual and projected demand by 10, which resulted in a revised 10-year average of 9.5 million NIVs of all classes per year.



Because actual costs and level of effort for most categories of NIVs have been relatively stable over this period, the significant increase in average demand generates a corresponding decrease in the unit costs of providing these services. As a result, the Department will implement smaller fee increases than originally proposed for all categories of NIVs.

The Department is also postponing the fee increase for the exchange visitor waiver of two-year residency requirement (''J-Waiver'') fee. Unlike machine-readable visa (MRV) fees, which must be set at the cost of providing nonimmigrant visa application processing and border crossing card processing services, *see* 8 U.S.C. 1713(b); 8 U.S.C. 1351 (note), the Department has discretion to take factors other than cost into account when setting the J-Waiver fee. *See* 31 U.S.C. 9701 (permitting the Government to consider ''other relevant facts'' in addition to costs when setting fees); Office of Management and Budget (OMB) Circular A–25, Section 6(c)(2)(b) (recognizing exceptions to the general policy of full cost recovery when conditions exist that justify an exception); *see also* 22 U.S.C. 1475e (authorizing the Department to retain fees related to Exchange Visitor Program services ''to such extent as may be provided in advance in appropriations acts'' and expend such fees for ''authorized purposes'' without specifying the amount at which the fees much be set). Although the costs of providing the J-Waiver service have increased as indicated in the NPRM, the Department has assessed that currently available retained revenue from this fee is sufficient to permit the Department to sustain the J-Waiver service in the near term without raising the fee at this time.

Below are the adjustments to the fee recommendations in the NPRM that the Department will implement in this final rule:

- The application processing fee for non-petition based NIVs (except E category), will be raised from $160 to $185. This represents a 15.6 percent increase over the current fee, but is $60 or 24.5 percent below the original proposal of $245.
- The application processing fee for H, L, O, P, Q, and R category NIVs, will be raised from $190 to $205. This represents a 7.9 percent increase over the current fee, but is $105 or 33.9 percent below the original proposal of $310.
- The processing fee for the BCCs for Mexican citizens age 15 and over will be raised from $160 to $185. This represents a 15.6 percent increase over the current fee, but is $60 or 24.5 percent below the original proposal of $245.
- The fee for E category NIVs will be raised from $205 to $315. This represents a 53.7 percent increase over the current fee, but is $170 or 35 percent below the original proposal of $485.
- The fee for the exchange visitor waiver of two-year residency requirement will be maintained at $120, instead of the proposed $510.

As discussed above, the Department applied the same methodology to calculate the revised fees and the relevant authorities found in the NPRM apply to these revised fee recommendations. This rule also addresses public comments received by the Department on the originally proposed fee recommendations found in the NPRM.

Analysis of Comments

In the 60-day period following publication of the NPRM, the Department received a total of 328 comments, 94 of which were duplicates. The comments are categorized into the following general topics.

Education

The Department received many comments related to the proposed increase from $160 to $245 for non-petition based nonimmigrant visas (except E category), which include all types of student visas. Sixty-one commenters expressed concerns about the impact of the fee increases on international education, including the following sub-topics: 10 comments on how the COVID–19 pandemic affects international students and institutions of higher education in the United States; 11 comments on how the English as a Second Language (ESL) community

might be affected; 6 comments on the Biden Administration's policies for attracting international students; and 15 comments on the possibility that an increase of this kind might drive international students to seek educational opportunities in other countries. As discussed above, this final rule implements only a $25 increase for non-petition-based NIV fees, from $160 to $185. The Department believes this modification largely addresses the issues raised by the commenters, which appeared to be driven by financial impact on visa applicants.

Gradual Increase

The Department received 19 comments from commenters who accepted the proposed fee increases but requested that the Department delay the increases to sometime in the future or make them more gradual. The Department's decision to increase the non-petition-based NIV (except E category) fee by only $25 rather than $85 and to increase the NIV fee for H, L, O, P, Q, and R category visas by only $15 rather than $120 for the reasons discussed above addresses the concerns raised by these commenters.

Temporary Work Visas (Agricultural (H–2As) and Non-Agricultural (H–2Bs))

The Department received 80 comments regarding the H–2 visa programs. These comments were in response to the Department's original proposal that would have increased the fee from $190 to $310, and generally asserted that agricultural businesses cannot absorb a 63 percent increase to H–2 visa fees. The comments also asserted that with rising prices across the board (*e.g.,* increases in the Adverse Effect Wage Rate (AEWR)), the fee increase would put them out of business. As discussed in the NPRM, the impact of the proposed fee increases on the overall cost of bringing over an H–2 worker would have been minimal. If implemented, the proposed fee would have raised the total cost by just over one percent, from $10,367 ($10,177 + $190) to $10,487 ($10,177 + $310). *See* 86 FR 74023. This final rule implements only a $15 increase in petition-based NIV fees, from $190 to $205. Assuming the costs of bringing over an H–2 worker have not increased since the NPRM was issued, the total cost is now increasing by only .15 percent (from $10,367 to $10,382). This is significantly less than originally proposed, which should largely address the concerns of the commenters.

Adverse Effect Wage Rate (AEWR)

One commenter requested that if the fees are increased, then the ''AEWR should be removed, frozen, or replaced with a charge that isn't constantly increased.'' The AEWR, which is determined by the U.S. Department of Labor's Office of Foreign Labor Certification Administrator for the purpose of preventing the employment of H–2A workers from adversely affecting the wages of U.S. workers similarly employed, *see* 8 U.S.C. 1188(a)(1)(B), is ''[t]he annual weighted average hourly wage for field and livestock workers (combined) in the States or regions as published annually by the U.S. Department of Agriculture (USDA) based on its quarterly wage survey.'' 20 CFR 655.103(c). An employer whose *Application for Temporary Employment Certification* in the H–2A program has been certified by the Department of Labor must offer, advertise in its recruitment, and pay a wage that is at least the highest of the AEWR, a prevailing wage rate, an agreed-upon collective bargaining wage, the Federal minimum wage, or the State minimum wage. 20 CFR 655.120(a). The Department recognizes that an AEWR or other minimum wage under the H–2A program may impose a financial burden on agricultural employers; however, it is a requirement imposed by the Immigration and Naturalization Act, as implemented by the Department of Labor's H–2A regulations, which is outside the scope of this rulemaking.

Tourism

The Department received one comment that specifically discussed the impact the proposed fee increases could have on tourism demand. The NPRM examined the costs associated with tourist visits to the United States and the potential impact of the original proposed fee increase on demand for tourism. Our analysis showed that even with the originally proposed $85 increase, from $160 to $245, the impact on tourism likely would have been minimal.

Due to the revised demand projections, the Department is now implementing only a $25 increase to the fee for non-petition based NIVs (except E category). Assuming the average costs of travel to the United States ($4,834) have not increased since the publication of the NPRM, then the adjustment to the fee will increase the total cost of a trip from $4,994 ($4,834 + $160) (current rate) to $5,019 ($4,834 + $185), which is less than one-half of one percent. Thus, the impact on tourism almost certainly will be negligible.

The commenter also mentioned that by increasing the tourist visa fee, the Department risks increased reciprocity fees imposed by other countries, which will negatively impact Americans who wish to travel internationally. The Department acknowledges this risk but must set MRV fees to recover the costs of providing these services. *See* 8 U.S.C. 1713(b).

Evidence of Reason for Increase

The Department received six comments requesting additional evidence to help commenters understand the reasons for the increases. As detailed in the NPRM, while costs for non-petition-based nonimmigrant visas (except E category) and the petition-based nonimmigrant visa services have increased modestly but steadily since the last adjustment to these fees in 2012, demand for these visa categories has fluctuated more dramatically from year to year. *See* 86 FR 74021. Because MRV fees must be set at the cost of providing these services, 8 U.S.C. 1713(b), the unprecedented, significant decrease in demand due to the COVID–19 pandemic had a substantial impact on the fee increases proposed in the NPRM. Subsequently, the Department observed a considerable, unexpected recovery in NIV demand and made the decision to reanalyze the proposed fees in light of this rebound.

The Department cannot be certain why NIV demand has recovered more quickly than expected. The recovery in demand may be attributable to a variety of factors, including the increase in global vaccination rates, relaxation of travel restrictions and reopening of international borders, and gradual resumption of the Department's visa operations at overseas posts. When the initial projected demand for 2021–2024 was calculated, it was uncertain whether effective COVID–19 vaccines would be globally available and what impact vaccination would have on demand for NIVs. The relatively quick proliferation of COVID–19 vaccines worldwide and the corresponding reductions in the risk of serious illness and death due to COVID–19 may have increased individuals' willingness to travel and the easing of restrictions made it increasingly possible to do so. Regardless, because the CoSM assumed a negative outlook for a longer period, the original demand projections ultimately were too low.

The revised fee recommendation for E category NIVs reflects a decrease of $170 from the original proposal, from $205 to $315 rather than $485. As with the other categories of NIVs, the originally

proposed fee increase for E NIVs accounted for very low demand for this service during the COVID–19 pandemic. As discussed in the NPRM, however, the proposed increase also reflected an increased level of effort on the part of the adjudicator. The most recent CoSM demonstrated that consular staff spend significantly more time providing this service than was captured previously. *See* 86 FR 74018, 74022. The fee that will be implemented includes NIV adjudication efforts that were not previously captured in the current fee (as discussed in the NRPM), and accounts for the improved outlook for E visa demand.

Activity-Based Costing Methodology and Calculations

The Department received two comments related to its Activity-Based Costing (ABC) methodology and calculations. One commenter pointed out the ''vast majority of the cost of processing visa applications is directly proportional to the number of applications'' and that CA should consider fixed costs of services to be minimal in unit cost calculations. The cost of processing visa applications is not directly proportional to the number of applications. A significant portion of costs are fixed, including costs for rent and utilities as well as bureau, directorate, and post management. As discussed above, these costs have increased steadily due primarily to inflation since the last adjustments to these fees. Although the considerable fluctuations in demand due to the COVID–19 pandemic had a greater impact on the proposed fee increases, the rise in actual costs had an impact on the fees as well.

One commenter mentioned that the Department's ABC model should consider visa validity when calculating the fees for services. The Department does not set NIV application processing fees based on the number of years a visa is valid, because the costs associated with visa processing do not vary significantly whether the length of validity is one year or ten years, or whether a visa is for a single entry or multiple entries.

Same Level of Service (Backlog)

The Department received four comments stating that the commenter would gladly pay an increased fee for faster service (*i.e.,* decreased wait times), but did not support fee increases to obtain the same level of service currently provided. The Department understands the concerns regarding visa processing times. The COVID–19 pandemic resulted in profound reductions in the Department's visa processing capacity, and many embassies and consulates were able to provide only limited visa services. As worldwide restrictions due to the COVID–19 pandemic ease, the Department is focused on reducing wait times for all consular services at our embassies and consulates overseas while also protecting the health and safety of our staff and applicants when they come to embassy or consular premises. Although local conditions and restrictions at individual consular posts may continue to fluctuate, embassies and consulates have broad discretion to determine how to prioritize visa appointments among the ranges of visa classes as safely as possible, subject to local conditions and restrictions. The Department sets MRV fees at the cost of providing the service, *see* 8 U.S.C. 1713(b), and these fees are used to cover the costs of the service, including the materials, office space, equipment, etc. needed to process and produce NIVs.

Domestic Renewals (Visa Reissuance in the U.S. for Certain Visa Holders)

The Department received 75 comments suggesting and requesting that the Department resume domestic visa renewals for individuals who were previously approved to receive certain visa classes (*e.g.,* H–1B, H–4, Green Cards) and previously provided biometrics. These commenters assert that such renewals would eliminate the requirement for these individuals to travel to their home country to renew their visas, where they may need to remain for uncertain periods of time before they can obtain interview appointments at the embassy or consulate.

The State Department provided domestic renewals until the 2002 Enhanced Border Security and Visa Entry Reform Act required that U.S. visas issued after October 26, 2004, include biometric identifiers. This, in turn, required visa holders to renew their visas outside the United States, because domestic fingerprint collection was not feasible at the time. The possibility of relying on previously collected fingerprints would overcome one obstacle to resuming domestic renewal. As part of the Department's ongoing commitment to exploring options to make visa processing more efficient and accessible for all applicants, the Department is assessing numerous logistical challenges that need to be addressed in implementing such an initiative. The Department continues to explore options to make visa processing more efficient and accessible for all applicants.

Conclusion

The Department will adjust application processing fees for NIVs and adult BCC fees in light of the Cost of Service Model's findings that the U.S. Government is not fully recovering the costs of processing applications for several categories of NIVs and the adult BCC. The Department is postponing the fee increase for the J-Waiver fee, which will remain at $120. In accordance with its statutory authorities and consistent with OMB guidance, the Department sets user fees at a level sufficient to recover the cost of providing services that provide special benefits to an identifiable recipient beyond those that accrue to the general public. *See* 31 U.S.C. 9701; OMB Circular A–25, sec. 6(a)(1), (a)(2)(a); *see also* 8 U.S.C. 1713(b). For this reason, the Department will adjust the Schedule of Fees.

Regulatory Findings

Administrative Procedure Act

The Department published this rulemaking as a proposed rule and provided 60 days for public comment. This final rule will be effective 60 days after publication, in accordance with 5 U.S.C. 801(a)(3).

Regulatory Flexibility Act

The Department has reviewed this rule and, by approving it, certifies that it will not have a significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6). This rule adjusts the application processing fees for H, L, O, P, Q and R category visas, which will account for approximately eleven percent of the total nonimmigrant visa workload expected in FY2023. Although the issuance of some of these visas is contingent upon approval by DHS of a petition filed by a United States company with DHS, and these companies pay a fee to DHS to cover the processing of the petition, the visa itself is sought and paid for by an individual foreign national overseas who seeks to come to the United States or, in some cases, an employer applying on their behalf. The amount of the petition fees that are paid by small entities to DHS is not impacted by the amount of the visa fees paid by individuals to the Department of State. While small entities may cover or reimburse employees for application processing fees, the exact number of such entities that do so is unknown. Whether or not small entities choose to reimburse the applicant for their employment-based NIV fees, the $15 increase is not likely to have a significant economic impact.

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501–1504.

Congressional Review Act

This rule is a major rule as defined by 5 U.S.C. 804(2).

Executive Orders 12866 and 13563

The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in E.O. 12866 and E.O. 13563. OMB has determined that this rule is economically significant under Executive Order 12866.

a. Need for the Regulatory Action

This final rule is necessary in light of the CoSM's findings that costs associated with NIV application processing have increased since the last update to these fees. The Department sets NIV application fees commensurate with the costs of providing these services in accordance with 8 U.S.C. 1713(b) and OMB Circular A–25. The increase in costs therefore justify these adjustments through the rulemaking process.

b. Summary of Changes From the Current Rule

The following table summarizes the impact of this final rule:

Item No.	Proposed fee	Current fee	Change in fee	Percentage increase	Projected annual number of applications [1]	Estimated change in annual fees collected [2]	Change in state retained fees	Change in remittance to treasury
SCHEDULE OF FEES FOR CONSULAR SERVICES								
*	*	*	*	*	*	*		
NONIMMIGRANT VISA SERVICES								
*	*	*	*	*	*	*		
21. Nonimmigrant Visa Application and Border Crossing Card Processing Fees (per person).								
(a) Non-petition-based nonimmigrant visa (except E category)	$185	$160	$25	16	8,574,624	$214,365,600	$214,365,600	$0
(b) H, L, O, P, Q, and R category nonimmigrant visa	205	190	15	8	1,141,549	17,123,235	17,123,235	0
(c) E category nonimmigrant visa	315	205	110	54	69,326	7,625,860	7,625,860	0
(e) Border Crossing Card—age 15 and over (10 year validity)	185	160	25	16	1,400,236	35,005,900	35,005,900	0
IMMIGRANT AND SPECIAL VISA SERVICES								
*	*	*	*	*	*	*		
35. Special Visa Services								
(b) Waiver of two-year residency requirement	120	120	0	0	N/A	N/A	N/A	0
Total						$274,120,595	$274,120,595	0

[1] Application volume based on FY 2023 projected workload. FY 2023 is the year likely year of implementation.
[2] Change in fee collection is based on FY2023 projected workload × change to fee.

As explained above, the results of the most recent CoSM indicate that the costs of providing nonimmigrant visa services have increased and therefore the current fees are not set at a level sufficient to permit the Department to fully recover the costs of providing these services. The Department relies exclusively on retained revenue from consular fee collections to fund ongoing consular operations. The NIV fees proposed by the Department are set to recover costs necessary to support NIV operations, in accordance with 8 U.S.C. 1713(b) and OMB Circular A–25. If any of these fees are set below costs, the Department's Bureau of Consular Affairs would be operating at a deficit. Such a situation could impact the Department's ability to provide consular services to those who seek to travel to the United States for tourism, education, or work-related reasons, by limiting access to resources needed to adjudicate and produce visas. That consequence, in turn, could have a negative effect on those aspects of the U.S. economy that depends on these visitors and workers.

c. Time Horizon of the Analysis

The Department's CoSM is updated annually, and the Department aims to update the Schedule of Fees biennially unless a significant change in costs warrants an immediate recommendation to amend the Schedule. If the results of the CoSM indicate a change in the cost (increase/decrease) of providing a service, then adjustments to the relevant fees will be made to ensure full cost recovery. Any future changes to the fees, however, will not impact NIV holders during the period of their visa's validity (generally 5–10 years).

d. Regulatory Alternatives

Due to the requirements of 8 U.S.C. 1713(b), there are no alternatives to raising MRV fees. However, as discussed in the preamble, the Department is finalizing lower increases than those proposed in the NPRM due to the rebound in demand for NIVs. As in the NPRM, the Department utilized 10-year average for demand to account for pandemic-related volatility and the fact that demand for NIVs is still in the process of recovering. The fees included in this rule are set at the cost of providing the relevant nonimmigrant

visa services and are used to cover the costs of those services, including the materials, offices, equipment, etc. needed to process and produce NIVs.

Therefore, the Department has no alternative to this rulemaking; if the Department does not recover costs for these NIV services, the Department will be operating at a deficit and its consular operations could be impeded.

e. Costs & Benefits of the Rule

The NPRM includes a section titled, ''Economic Impact'' that demonstrated that the proposed fee increases resulted in minimal increases in the totality of overall costs to both travelers and those seeking work visas. The economic impact of these fee increases is also discussed in the sections of this final rule responding to public comments. For the reasons discussed, the Department does not believe that the increased NIV application processing costs will deter non-U.S. citizens from applying for visas, because these fee increases do not significantly impact the costs of an applicant's travel to the United States.

Although economic impact on individual applicants is minimal, these fee increases will generate revenue that will be used to cover the costs of providing consular services. This revenue will help guarantee the continued functioning of the Department's consular operations, which will provide a direct benefit to U.S. citizens. The fees set through this rulemaking will not change unless and until the results of a future CoSM indicate that they need to be adjusted. As noted above, the Department does not anticipate any change in demand for visas services because of this rulemaking. The cost of an NIV remains minor in comparison with other costs associated with travel, education, or hiring a worker from abroad, as detailed in the NPRM.

Executive Order 12372 and 13132

This regulation 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. Therefore, in accordance with section 6 of E.O. 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing E.O. 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

Executive Order 13175

The Department has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, the requirements of E.O. 13175 do not apply to this rulemaking.

Paperwork Reduction Act

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

List of Subjects in 22 CFR Part 22

Consular services, Fees.

Accordingly, for the reasons stated in the preamble, 22 CFR part 22 is amended as follows:

PART 22—SCHEDULE OF FEES FOR CONSULAR SERVICES—DEPARTMENT OF STATE AND FOREIGN SERVICE

■ 1. The authority citation for part 22 continues to read as follows:

Authority: 8 U.S.C. 1101 note, 1153 note, 1157 note, 1183a note, 1184(c)(12), 1201(c), 1351, 1351 note, 1713, 1714, 1714 note; 10 U.S.C. 2602(c); 22 U.S.C. 214, 214 note, 1475e, 2504(h), 2651a, 4206, 4215, 4219, 6551; 31 U.S.C. 9701; E.O. 10718, 22 FR 4632, 3 CFR, 1954–1958 Comp., p. 382; E.O. 11295, 31 FR 10603, 3 CFR, 1966–1970 Comp., p. 570.

■ 2. In § 22.1, amend the table by revising entries 21(a), (b), (c), and (e) under the heading ''Nonimmigrant Visa Services'' to read as follows:

§ 22.1 Schedule of fees.

* * * * *

SCHEDULE OF FEES FOR CONSULAR SERVICES

Item No.	Fee
* * * * * * *	
Nonimmigrant Visa Services	
* * * * * * *	
21. Nonimmigrant Visa Application and Border Crossing Card Processing Fees (per person)	
(a) Non-petition-based nonimmigrant visa (except E category)	$185
(b) H, L, O, P, Q and R category nonimmigrant visa	205
(c) E category nonimmigrant visa	315
* * * * * * *	
(e) Border crossing card—age 15 and over (10 year validity)	185
* * * * * * *	

Rena Bitter,

Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2023–06290 Filed 3–27–23; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

22 CFR Part 62

[Public Notice: 12016]

RIN 1400–AC36

Exchange Visitor Program—General Provisions

AGENCY: Department of State.

ACTION: Interim final rule, with request for comment.

SUMMARY: The U.S. Department of State (Department of State) is publishing an interim final rule with request for comment (interim final rule) for Exchange Visitor Program regulations, the regulations that apply to sponsors the Department of State designates to conduct international educational and cultural exchange programs. The Department of State is making administrative changes to the regulations to include providing sponsors two new options: using digital signature software to sign Certificates of Eligibility for Exchange Visitor (J–1) Status (Forms DS–2019) and electronically transmitting Forms DS–2019. Sponsors should experience cost savings and increased efficiencies from these changes.

DATES: This interim final rule is effective on April 27, 2023. The Department of State will accept public comments until May 30, 2023.

ADDRESSES: Interested parties may submit comments to the Department of State by any of the following methods:

- Visit the *Regulations.gov* website at: *http://www.regulations.gov* and search for the docket number DOS–2023–0010.
- *Email: JExchanges@state.gov.* Commenting parties must include RIN 1400–AC36 in the subject line of the email message.
- All comments should include the commenter's name, the organization the commenter represents, if applicable, and the commenter's address. If the Department of State is unable to read a comment for any reason, and cannot contact the commenting party for clarification, the Department of State may not be able to consider your comment. After the conclusion of the comment period, the Department of State will publish a final rule (in which it will address relevant comments) as expeditiously as possible.

FOR FURTHER INFORMATON CONTACT: Karen Ward, Director, Office of Private Sector Exchange Designation, at SA–5, 2200 C Street NW, Washington, DC 20522 or via email at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION: The Department of State published a notice of proposed rulemaking (NPRM) for subpart A of 22 CFR part 62 in the **Federal Register** on September 22, 2009 (74 FR 48177). Subpart A sets forth the general provisions for eligibility and continuing requirements for all designated sponsors that conduct exchange visitor programs. After considering the comments that more than 100 parties submitted in response to the NPRM, the Department of State published a final rule on October 6, 2014 (79 FR 60294), at which time it requested additional comments (2014 final rule).

The sponsor community has long sought the ability to digitally sign and electronically transmit (*e.g.,* via email) Forms DS–2019, *i.e.,* the Student and Exchange Visitor Information System-(SEVIS-) generated documents that prospective exchange visitors and their spouses and dependents, if any, must present at U.S. embassies or consulates to apply for J-visas. This Interim Final Rule permits sponsors to sign Forms DS–2019 using digital signatures, defined as follows: An application of technology for cryptographically derived signatures that ensures meaningful authentication of the identity of the signer and integrity of the document. Digital signatures are a subset of electronic signatures, but unlike other electronic signatures, digital signatures employ cryptography, *i.e.,* are backed by a process such as a public key infrastructure. Commonly used digital signature software packages include, but are not limited to, DocuSign, Adobe Sign, and Global Sign. For sponsors that are unable or do not wish to apply digital signatures, the Interim Final Rule retains the current option of printing and hand signing Forms DS–2019 in ink.

With the implementation of this rule, sponsors may transmit Forms DS–2019 electronically, including directly to exchange visitors. Sponsors without digital signature capacity may print and sign forms in ink (as they do now, except that blue ink is no longer required), scan the forms (*e.g.,* into portable document format (PDF) files), and then transmit them electronically. The Department of State notes that these regulatory changes will have no impact on SEVIS functionality or the number of Forms DS–2019 allotted to sponsors.

The Department of State believes that many sponsors already have digital signature software, and that the elimination of the requirement that sponsors mail paper forms worldwide will result in significant cost-savings. Accordingly, it anticipates that most sponsors will recognize the benefits of digital signatures and, if they have not already done so, will invest in digital signature software.

In this interim final rule, the Department of State also clarifies, corrects, and/or deletes ambiguous, obsolete, or technically inaccurate language and requirements, some of which were adopted before SEVIS-generated Forms DS–2019 replaced paper Forms IAP–66. The following two changes are also made by this rulemaking: adoption of the plural forms of nouns (*e.g.,* sponsors, exchange visitors); and replacement of the term ''original'' with the term ''paper'' when describing the physical Forms DS–2019.

The reasons for the regulatory changes, including comments about such changes, follow for each provision of 22 CFR 62.12 that the Department of State modifies herein. The following bolded citations represent current regulatory text in 22 CFR part 62.

22 CFR 62.12(a) Issuance of Forms DS–2019

22 CFR 62.12(a)(1). The Department of State adds the language ''to SEVIS'' to clarify that it is access to SEVIS that is restricted to Responsible Officers and Alternate Responsible Officers (collectively, Officers).

22 CFR 62.12(a)(3). The Department of State incorporates into this paragraph the requirement that sponsors may issue Forms DS–2019 for the enumerated purposes only if the regulations permit, and if necessary, the Department of State authorizes the action. This change updates this specific regulatory language to clarify requirements for sponsors.

22 CFR 62.12(a)(3)(ii). The Department of State eliminates the phrase ''when permitted by the regulations and authorized by the Department of State'' because these general requirements are now present in 22 CFR 62.12(a)(3).

22 CFR 62.12(a)(3)(iii). For the same reason, the Department of State eliminates the phrase ''when permitted by the regulations and/or authorized in writing by the Department of State.''

22 CFR 62.12(a)(3)(iv). The Department of State makes no changes to this paragraph. The Department of State confirms the need to use the reprint function in SEVIS when replacing Forms DS–2019 that have been lost, stolen, or damaged. When nonimmigrants traveling on J-visas lose their Forms DS–2019, sponsors historically would reprint the previously issued forms and send them to the exchange visitors who requested a copy. With electronic transmission,

sponsors should still use the reprint function in SEVIS to appropriately record the action before electronically transmitting replacement forms to exchange visitors.

22 CFR 62.12(a)(3)(v). Commenting parties opined that re-entry into the United States is not a reason that sponsors initially issue Forms DS–2019. The Department of State notes, however, there are instances when all travel signature lines on Forms DS–2019 are filled, and Officers must issue new forms. Accordingly, the Department of State retains this provision.

22 CFR 62.12(a)(3)(vi). The Department of State eliminates the phrase ''when requested in SEVIS and authorized by the Department of State.'' The phrase ''when requested in SEVIS'' describes the method of requesting category changes and is unnecessary in a rule that enumerates the reasons for issuing Forms DS–2019.

22 CFR 62.12(a)(3)(vii). The Department of State eliminates the phrase ''or a change in actual and current U.S. address'' in response to numerous comments that explained that this was not a valid example of reasons to issue Forms DS–2019 since this SEVIS field is not printed on Forms DS–2019.

22 CFR 62.12(b) Verification

22 CFR 62.1(b)(2)(ii). The Department of State eliminates the requirement that Officers sign paper Forms DS–2019 using only blue ink to permit greater flexibility for sponsors.

22 CFR 62.12(b)(2)(iii). In response to numerous requests from sponsors to be able to sign Forms DS–2019 electronically, the Department of State adds a new paragraph to permit digital signatures, defined as an application of technology for cryptographically derived signatures that ensures meaningful authentication of the identity of the signer and integrity of the document. Digital signatures are a subset of electronic signatures, but unlike other electronic signatures, digital signatures employ cryptography, *i.e.,* are backed by a process such as a public key infrastructure. Sponsors may also continue to sign paper Forms DS–2019 forms in ink. The Department removes the requirement that the DS–2019 be signed in blue ink to allow greater flexibility for sponsors. The Department of State also recommends that sponsors remind applicants and their accompanying spouses and dependents, if any, that they must take a paper form to their visa interviews to be stamped and signed by a consular officer. They must also present a paper copy of their Forms DS–2019 at their ports of entry into the United States.

Several commenting parties also sought the flexibility to allow any Officer to sign Forms DS–2019 that they submit via batch processing, when Officers whose names were printed on forms are not present to sign paper forms. However, when Officers print or reprint Forms DS–2019, SEVIS automatically populates Field #7 with the name of the Officer who initially submitted the action, making it necessary for that Officer to sign the paper form. In the electronic environment, digital signatures are embedded in documents, allowing Officers to sign forms as they create them, thereby mitigating this concern.

Several commenting parties also asked whether different Officers could sign Forms DS–2019 when they are reprinted for travel purposes. As noted above, SEVIS prints in Field #7 the name of the Officer who initiated the print/reprint function. Since a signature must match the name of the Officer printed on each form, sponsors should ensure that Officers whose names appear on forms are available to sign them. The Officer that signs the original Form DS–2019 may be different than the Officer that reprints the form from SEVIS. The Department of State will explore the capability of enhancing SEVIS to allow users to select the names of Officers that will print on forms.

22 CFR 62.12(c) Distribution of Forms DS–2019

The Department of State changes the heading of paragraph (c) to ''Transmission of Forms DS–2019'' and clarifies to whom sponsors may transmit Forms DS–2019. Many commenting parties read the current regulatory language to limit sponsors' transmission of Forms DS–2019 to only ''authorized parties,'' meaning the Department of State and the Department of Homeland Security. Many commenters requested the Department of State expand the definition of ''authorized parties.'' To clarify this provision, the Department of State now specifically enumerates the parties to whom sponsors may transmit Forms DS–2019 electronically (*e.g.,* via email) or by mail (*e.g.,* via postal or delivery service): exchange visitors; accompanying spouses and dependents; legal guardians of minor exchange visitors; sponsor staff; Fulbright commissions and their staff; and Federal, State, and local government agencies or departments. The Fulbright commissions (and their staff) referenced above are authorized and established pursuant to section 103 of the Mutual Educational and Cultural Exchange Act of 1961 (commonly known as the Fulbright-Hays Act) (22 U.S.C. 2453). The Department of State notes that sponsors' Officers must ensure that Forms DS–2019 are secured; and they may transmit them electronically to other sponsor staff only on a shared network.

The Department of State clarifies that sponsors may continue to transmit paper Forms DS–2019 via mail to foreign third parties acting on their behalf to facilitate their gathering necessary paperwork for multiple applicants to take to their visa interviews. Sponsors may not transmit Forms DS–2019 electronically to foreign third parties, however, as the ability to transmit forms electronically to the parties enumerated above eliminates the need for foreign third parties to have access to electronic forms.

22 CFR 62.12(d) Allotment Requests

The Department of State makes case corrections and clarifying edits in this paragraph. It also eliminates the language establishing four weeks as the estimated time for responding to allotment requests since conditions outside the control of the Department of State may delay meeting any specific deadline. It also clarifies that sponsors should refer to the most recent version of the *User Manual for Exchange Visitor Program Sponsor Users (RO/ARO) of SEVIS Volume I, Forms DS–3036 and DS–3037* on the *j1visa.state.gov* website to determine whether the Department of State has modified or updated the ''other information'' that the regulation states it may require. Otherwise, it maintains the current regulatory language.

22 CFR 62.12(e) Safeguards and Controls

22 CFR 62.12(e)(1). The Department of State replaces the term ''SEVIS logon identification Numbers (IDs)'' with the technically accurate term ''SEVIS User Names.''

22 CFR 62.12(e)(2). The Department of State modifies this section to prohibit transmission of Forms DS–2019 to any parties other than those listed in paragraph (c).

22 CFR 62.12(e)(3). The Department of State adds the word ''damaged'' to be consistent with 22 CFR 62.12(a)(3)(iv). It reminds sponsors to use the reprint function in SEVIS to sign and transmit reprinted Forms DS–2019.

22 CFR 62.12(e)(4). The Department of State makes no changes to this section.

Regulatory Analysis and Notices

Administrative Procedure Act

The Department of State is issuing this rulemaking as an interim final rule for the following reasons. In the 2014 rulemaking, the Department of State stated its view that the Exchange Visitor Program is a foreign affairs function of the U.S. Government and that rules implementing this function are exempt from sections 553 (Rulemaking) and 554 (Adjudications) of the Administrative Procedure Act (APA). It also asserts that this rulemaking is exempt from notice and comment for two separate reasons. First, the rule responds to relevant comments submitted in response to the 2014 final rule, and as such, is a logical outgrowth of the 2014 final rule. The changes included in this rulemaking constitute rules of ''agency organization, procedure, or practice'' (5 U.S.C. 553(b)(3)(A)). Also, the Department of State has ''good cause'' to find that notice and comment is ''impracticable, unnecessary, or contrary to the public interest'' (5 U.S.C. 553(b)(3)(B)). In the 2014 Final Rule, the Department of State sought comments on 22 CFR 62.12, the control of Forms DS–2019. This interim final rule responds to those commenters and adopts some changes that were recommended at that time. With respect to the procedural rule exception (5 U.S.C. 553(b)(3)(A)), the Department is expanding options for signing and transmitting Forms DS–2019, without eliminating the current method. Although there may be de minimis costs for sponsors to obtain digital signature software to avail themselves of the new digital signature provision (if they choose to do so), those sponsors who elect to continue the current procedure will not incur that cost. Accordingly, the Department of State believes that additional prior notice and public comment on this provision are not necessary.

Congressional Review Act

This regulation is not a major rule as defined by 5 U.S.C. 804. This rule will not 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 on the ability of U.S.-based companies to compete with foreign-based companies in domestic and export markets.

Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by State, local or Tribal governments, in the aggregate, or by the private sector, of $100 million in any year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1501 *et seq.*).

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

The Department of State has determined that this regulation will not have Tribal implications; will not impose substantial direct compliance costs on Indian Tribal governments; and will not preempt Tribal law. Accordingly, the requirements of Executive Order 13175 do not apply to this rulemaking.

Regulatory Flexibility Act: Small Business Impacts

Since this rule is exempt from section 553 (Rulemaking) and section 554 (Adjudications) of the APA, this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* (1980)).

Executive Orders 12866 and 13563

The Department of State has submitted this rule to the Office of Information and Regulatory Affairs, pursuant to its longstanding practice.[1] The Department of State certifies that the benefits of this rulemaking outweigh any costs, since sponsors and exchange visitors will more likely experience cost savings from the options presented herein, and sponsors have in fact requested the changes. The Office of Information and Regulatory Affairs has designated this rule as non-significant, as defined by Executive Order 12866.

Executive Order 12988

The Department of State has reviewed this rulemaking considering sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burdens.

Executive Orders 12372 and 13132—Federalism

The Department of State finds that this regulation does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

[1] Pursuant to letters exchanged between the Department of State Legal Adviser and the Administrator of OIRA shortly after E.O. 12866 was signed, the Department of State is generally exempt from the provisions of E.O. 12866, except when it is promulgating regulations in conjunction with a domestic agency; provided that OIRA may review any significant regulatory actions of which it becomes aware.

Paperwork Reduction Act

This rulemaking does not create or modify any information collection that is subject to 44 U.S.C. chapter 35.

List of Subjects in 22 CFR Part 62

Cultural exchange programs; Reporting and recordkeeping requirements.

For the reasons stated in the preamble, the Department of State amends 22 CFR part 62 as follows:

PART 62—EXCHANGE VISITOR PROGRAM

■ 1. The authority citation to 22 CFR part 62 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(J), 1182, 1184, 1258; 22 U.S.C. 1431 *et seq.;* 22 U.S.C. 2451 *et seq.;* 22 U.S.C. 2651a; 22 U.S.C. 6531–6553; Reorganization Plan No. 2 of 1977, 42 FR 62461, 3 CFR, 1977 Comp. p. 200; E.O. 12048, 43 FR 13361, 3 CFR, 1978 Comp., p. 168; 8 U.S.C. 1372; section 416 of Pub. L. 107–56, 115 Stat. 354 (8 U.S.C. 1372 note); and 8 U.S.C. 1761–1762.

■ 2. Revise § 62.12 to read as follows:

§ 62.12 Control of Forms DS–2019.

(a) *Issuance of Forms DS–2019.* Sponsors must:

(1) Grant access to SEVIS only to Responsible Officers and Alternate Responsible Officers and ensure that they have access to and use SEVIS to update required information;

(2) Ensure that Responsible Officers and Alternate Responsible Officers input into SEVIS accurate, current, and updated information in accordance with these regulations; and

(3) Issue Forms DS–2019 only for the following purposes if permitted by the regulations and, as necessary, authorized by the Department of State:

(i) To facilitate the initial entry of exchange visitors and accompanying spouses and dependents, if any, into the United States;

(ii) To extend the duration of participation of exchange visitors;

(iii) To facilitate program transfers;

(iv) To replace lost, stolen, or damaged Forms DS–2019;

(v) To facilitate the re-entry into the United States of exchange visitors and accompanying spouses and dependents, if any, who travel outside the United States during exchange visitors' programs;

(vi) To facilitate changes of category;

(vii) To update information when significant changes take place in regard to exchange visitors' programs (*e.g.,* substantial changes in funding, change in primary sites of activity, or changes in actual and current U.S. address);

(viii) To facilitate the correction of a minor or technical infraction; or

(ix) To facilitate a ''reinstatement'' or a ''reinstatement update SEVIS status.

(b) *Verification.* (1) Prior to issuing Forms DS–2019, sponsors must verify that prospective exchange visitors:

(i) Are eligible and qualified for, and accepted into, the programs in which they will participate;

(ii) Possess adequate financial resources to participate in and complete their exchange visitor programs; and

(iii) Possess adequate financial resources to support accompanying spouses and dependents, if any.

(2) Sponsors must ensure that:

(i) Only Responsible Officers or Alternate Responsible Officers who are physically present in the United States or in a U.S. territory may print and/or sign Forms DS–2019;

(ii) Only Responsible Officers or Alternate Responsible Officers whose names are printed on Forms DS–2019 are permitted to sign the forms; and

(iii) Responsible Officers or Alternate Responsible Officers sign paper Forms DS–2019 in ink or sign Forms DS–2019 using digital signatures.

(c) *Transmission of Forms DS–2019.* Sponsors may transmit Forms DS–2019 either electronically (*e.g.,* via email) or by mailing them (*e.g.,* via postal or delivery service) to only the following individuals or entities: exchange visitors; accompanying spouses and dependents, if any; legal guardians of minor exchange visitors; sponsor staff; Fulbright Commissions and their staff; and Federal, State, or local government agencies or departments. In addition, sponsors may mail signed paper Forms DS–2019 via postal or delivery service to foreign third parties acting on their behalf for distribution to prospective exchange visitors.

(d) *Allotment requests*—(1) *Annual Form DS–2019 allotment.* Sponsors must submit an electronic request via SEVIS to the Department of State for an annual allotment of Forms DS–2019 based on the annual reporting cycle (*e.g.,* academic, calendar, or fiscal year) stated in their letter of designation or redesignation. The Department of State has sole discretion to determine the number of Forms DS–2019 it will issue to sponsors.

(2) *Expansion of program.* Requests for program expansion must include information such as, but not limited to, the justification for and source of program growth, staff increases, confirmation of adequately trained employees, noted programmatic successes, current financial information, additional overseas affiliates, additional third-party entities, explanations of how the sponsor will accommodate the anticipated program growth, and any other information the Department of State may request. The Department of State will take into consideration the current size of sponsors programs and the projected expansion of their programs in the next 12 months and may consult with the Responsible Officer and/or Alternate Responsible Officers prior to determining the number of Forms DS–2019 it will issue.

(e) *Safeguards and controls.* (1) Responsible Officers and Alternate Responsible Officers must always secure their SEVIS User Names and passwords (*i.e.,* not share User Names and passwords with any other person or to permit access to and use of SEVIS by any person).

(2) Sponsors may transmit Forms D–2019 only to the parties listed in paragraph (c) of this section. However, sponsors must transmit Forms DS–2019 to the Department of State or the Department of Homeland Security upon request.

(3) Sponsors must use the reprint function in SEVIS when exchange visitors' Forms DS–2019 are lost, stolen, or damaged, regardless of whether they are transmitting forms electronically or mailing them.

(4) Sponsors must destroy any damaged and/or unusable Forms DS–2019 (*e.g.,* forms with errors or forms damaged by a printer).

Karen Ward,

Director, Office of Private Sector Exchange Designation, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2023–06157 Filed 3–27–23; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

22 CFR Chapter I

[Public Notice 11985]

RIN 1400–ZA27

Employment-Based Preference Immigrant Visa Final Action Dates and Dates for Filing for El Salvador, Guatemala, and Honduras

AGENCY: Department of State.

ACTION: Interpretation of certain statutory provisions.

SUMMARY: The Department of State (''Department'') is issuing this document to state its interpretation of certain provisions in the Immigration and Nationality Act (INA) regarding the availability of immigrant visa numbers in categories subject to an annual numerical limit. To ensure that Department practice is consistent with these INA provisions, future *Visa Bulletins,* beginning with the April 2023 *Visa Bulletin,* will reflect this interpretation with respect to the availability of employment-based preference visas for applicants from the Northern Central American countries of El Salvador, Guatemala, and Honduras (''NCA Countries'').

DATES: March 28, 2023.

FOR FURTHER INFORMATION CONTACT: Andrea Lage, Acting Senior Regulatory Coordinator, Visa Services, Bureau of Consular Affairs, 600 19th Street NW, Washington, DC 20522, 202–485–7586, *VisaRegs@state.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Applicants for immigrant visas subject to numerical limitations prescribed in sections 201–203 of the INA, 8 U.S.C. 1151–1153, are generally chargeable to their country of birth. INA 203(e), 8 U.S.C. 1153(e), governs the order in which immigrant visas in the family-sponsored and employment-based preference categories under INA 203(a)–(b), 8 U.S.C. 1153(a)–(b), respectively, are allocated, and requires that visas in these categories be made available in the order in which the associated petition is filed.

INA 202(a)(2), 8 U.S.C. 1152(a)(2), imposes a ''per country'' limit of seven (7) percent of the total number of available family-sponsored and employment-based preference immigrant visas each fiscal year to nationals of individual foreign states. If the Department determines that preference visa issuances to nationals of a particular country will exceed the per-country limit, that country is identified in the *Visa Bulletin* as ''oversubscribed'' and INA 202(e), 8 U.S.C. 1152(e), requires that visas in each preference category must be pro-rated to ensure distribution across all preference categories. Individual family-sponsored and employment-based preference categories are also deemed ''oversubscribed'' when worldwide demand exceeds the number of immigrant visas available in those categories. Final action dates are listed in the *Visa Bulletin* when countries and visa categories are oversubscribed, and immigrant visas in categories with final action dates are available only to applicants with priority dates earlier than the listed final action date.

The EB–4 category consists of special immigrants as defined in the INA, including certain religious workers, certain current and former U.S. Government employees abroad, certain officers and employees of international organizations, and certain special

immigrant juveniles (SIJs). *See* sections 203(b)(4) and 101(a)(27) of the INA, 8 U.S.C. 1153(b)(4), 1101(a)(27).

II. Discussion of the Change Reflected in the April 2023 Visa Bulletin

The Department seeks to clarify that the INA permits prorated allocation of available visas within an employment-based preference category to nationals from an individual country only when family-sponsored and employment-based preference visa demand from that country will exceed its per-country limit under INA section 202(a)(2), 8 U.S.C. 1152(a)(2). Consistent with this interpretation, the Department is no longer assigning separate final action and filing dates for individuals chargeable to any of the NCA Countries in the EB–4 category and individuals chargeable to these three countries are now subject to the dates in the column headed ''All Chargeability Areas Except Those Listed'' (referred to herein as ''ROW,'' meaning the rest of the world). The Department is required to make this change to bring Department practice, as reflected in the *Visa Bulletin,* into compliance with these INA provisions. As a result of this change, there is no longer a need for a separate column for the NCA Countries in the employment-based preference ''Final Action Dates'' and ''Dates for Filing'' charts in the *Visa Bulletin.*

Specifically, INA 202(a), 8 U.S.C. 1152(a), makes clear that the per-country limit, which is implemented by setting final action dates for a country in the *Visa Bulletin,* is triggered only when preference immigrant visa demand from a country will exceed seven percent of the total number of preference visas made available in INA section 203(a)–(b), 8 U.S.C. 1153(a)–(b); that is, seven percent of the total number available for all family-sponsored and employment-based preference immigrant visas available worldwide.

This change corrects misapplication of the law in prior *Visa Bulletins,* beginning with the May 2016 *Visa Bulletin,* which added a separate column to the ''Final Action Dates for Employment-Based Preference Cases'' table, showing that EB–4 applicants chargeable to the NCA Countries were assigned an EB–4 final action date separate from the ROW column and these three countries were listed as ''oversubscribed'' and subject to the pro-rating provision at INA 202(e)(3), 8 U.S.C. 1152(e)(3). The May 2016 *Visa Bulletin* explained that ''extremely high demand'' in the EB–4 category (including the EB–4 subcategory for Certain Religious Workers (SR)) for applicants from the NCA Countries required implementation of final action dates in the EB–4 category for these countries. EB–4 final action dates were thus established for these three countries since May 2016 based on their high demand for EB–4 visas. The same approach was reflected in subsequent *Visa Bulletins* and in the corresponding table with ''Dates for Filing of Employment-Based Visa Applications,'' beginning with the October 2017 *Visa Bulletin.* However, that contravenes the Department's current interpretation of the statutory prerequisite for when a country can be deemed oversubscribed and allocation of preference visas can be pro-rated: that the INA provision on pro-rating is based on a country's demand for more than seven percent of *all* preference visas, not one subcategory.

As none of the NCA Countries are expected to exceed the per-country limit under INA 202(a)(2), 8 U.S.C. 1152(a)(2), there is no basis under the INA to set final action dates and dates for filing for employment-based preference visas that are specific to those countries.

Julie Stufft,

Deputy Assistant Secretary for Visa Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2023–06252 Filed 3–27–23; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0257]

RIN 1625–AA00

Safety Zone; Missouri River Mile Markers 175.5–176.5, Jefferson City, MO

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters in the Missouri River at Mile Marker (MM) 175.5 to 176.5. The safety zone is needed to protect personnel, vessels, and the marine environment from all potential hazards associated with electrical line work. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Upper Mississippi River (COTP) or a designated representative.

DATES: This rule is effective without actual notice from March 28, 2023 through April 21, 2023. For the purposes of enforcement, actual notice will be used from March 22, 2023, until March 28, 2023.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2023–0257 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MSTC Nathaniel Dibley, Sector Upper Mississippi River Waterways Management Division, U.S. Coast Guard; telephone 314–269–2550, email *Nathaniel.D.Dibley@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of The Port Sector Upper Mississippi River
DHS Department of Homeland Security
FR Federal Register
MM Mile marker
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. We must establish this temporary safety zone immediately to protect personnel, vessels, and the marine environment from potential hazards created by the electrical work and lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the rule.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Upper Mississippi River (COTP) has determined that potential hazards associated with electrical line work will be a safety concern for anyone operating or transiting within the Missouri River from MM 175.5–176.5. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while electrical line work is being conducted.

IV. Discussion of the Rule

Electrical line work will be occurring near MM 175.5–176.5 beginning March 24, 2023. The safety zone is designed to protect waterway users until work is complete.

No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River. To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative. The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in the size of the safety zone as conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB), as appropriate.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on a safety zone located on the Missouri River at MM 175.5–176.5, near Jefferson City, MO. The Safety Zone is expected to be active only during the hours of 9 a.m. through 4 p.m., or only when work is being conducted, every day until April 21, 2023.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone encompassing the width of the Missouri River at MM 175.5–176.5. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A

Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0257 to read as follows:

§ 165.T08–0257 Safety Zone; Missouri River, Mile Markers 175.5–176.5, Jefferson City, MO

(a) *Location.* The following area is a safety zone: all navigable waters within Missouri Mile Markers (MM) 175.5–176.5.

(b) *Enforcement period.* This section will be subject to enforcement from March 24, 2023, through April 21, 2023.

(c) *Regulations.* (1) In accordance with the general safety zone regulations in § 165.23, entry of persons or vessels into this safety zone described in paragraph (a) of this section is prohibited unless authorized by the COTP or a designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard (USCG) assigned to units under the operational control of USCG Sector Upper Mississippi River.

(2) To seek permission to enter, contact the COTP or a designated representative via VHF–FM channel 16, or through USCG Sector Upper Mississippi River at 314–269–2332. Persons and vessels permitted to enter the safety zone must comply with all lawful orders or directions issued by the COTP or designated representative

(d) *Informational broadcasts.* The COTP or a designated representative will inform the public of the effective period for the safety zone as well as any changes in the dates and times of enforcement, as well as reductions in size or scope of the safety zone as ice or flood conditions improve, through Local Notice to Mariners (LNMs), Broadcast Notices to Mariners (BNMs), and/or Safety Marine Information Broadcast (SMIB) as appropriate.

Dated: March 22, 2023.

D.J. Every,

Alternate, Captain of the Port, U.S. Coast Guard, Sector Upper Mississippi River.

[FR Doc. 2023–06314 Filed 3–27–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Parts 600, 668, and 690

[Docket ID ED–2022–OPE–0062]

RIN 1840–AD54, 1840–AD55, 1840–AD66, 1840–AD69

Pell Grants for Prison Education Programs; Determining the Amount of Federal Education Assistance Funds Received by Institutions of Higher Education (90/10); Change in Ownership and Change in Control; Correction

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Final regulations; correction.

SUMMARY: On October 28, 2022, the Department of Education (Department) published in the **Federal Register** final regulations for the Pell Grants for Prison Education Programs (PEPs). This document corrects those regulations by clarifying the requirements associated with an accrediting agency's review of a new PEP.

DATES: This correction is effective July 1, 2023.

FOR FURTHER INFORMATION CONTACT: Aaron Washington. Telephone: (202) 987–0911. Email *Aaron.Washington@ed.gov.*

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

SUPPLEMENTARY INFORMATION: On October 28, 2022, the Department published in the **Federal Register** final regulations that, among other things, establish requirements for postsecondary educational institutions to offer PEPs (87 FR 65426), effective July 1, 2023. The approval process for new PEPs under § 668.237(b) requires review by the postsecondary educational institution's accrediting agency. Specifically, under § 668.237(b)(4), the accrediting agency must have reviewed and approved the methodology for how the institution, in collaboration with the oversight entity, made the determination that the prison education program meets the same standards as substantially similar programs that are not prison education programs at the institution. Under § 668.236(a)(3), however, the oversight entity is not required to make this determination until two years after the initial PEP is approved to operate by the Department.

We are correcting § 668.237(b)(4) by adding the words ''If the requirements of § 668.236(a)(3) are satisfied,'' to make clear that, as part of its review of new PEPs, the accrediting agency reviews the referenced methodology only after the two-year period set forth in § 668.236(a)(3).

Correction

In FR Doc. 2022–23078, published in the **Federal Register** on October 28, 2022 (87 FR 65426), on page 65496, in the third column, in § 668.237, paragraph (b)(4) is corrected to read as follows:

§ 668.237 [Corrected]

* * * * *

(b) * * *

(4) If the requirements under § 668.236(a)(3) are satisfied, reviewed and approved the methodology for how the institution, in collaboration with the oversight entity, made the determination that the prison education program meets the same standards as substantially similar programs that are not prison education programs at the institution.

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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(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.

Miguel A. Cardona,

Secretary of Education.

[FR Doc. 2023–06303 Filed 3–27–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 230119–0019]

RIN 0648–BL59

International Fisheries; Pacific Tuna Fisheries; 2022–2024 In-Season Action Announcement Procedures for Commercial Pacific Bluefin Tuna in the Eastern Pacific Ocean; Correction

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

ACTION: Final rule; correction.

SUMMARY: NMFS is correcting a final rule for in-season action announcement procedures for commercial Pacific bluefin tuna (PBF) that appeared in the **Federal Register** on January 27, 2023. In that rule, NMFS did not address a public comment because of an error on the deadline for comment submissions. This correction responds to the comment, which does not change the action in the January 27 final rule.

DATES: Effective March 28, 2023.

FOR FURTHER INFORMATION CONTACT: Celia Barroso, NMFS, 562–432–1850, *Celia.Barroso@noaa.gov.*

SUPPLEMENTARY INFORMATION: On January 27, 2023, NMFS published a final rule on in-season action announcement procedures for PBF (88 FR 5273). Due to an error on the deadline for comment submissions, NMFS did not see, and therefore did not respond, to a public comment submitted during the public comment period of the proposed rule. Upon learning of this error, NMFS immediately took steps to issue this correction to the final rule that addresses the comment.

Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Tuna Conventions Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Section 553(b)(B) of the Administrative Procedure Act (APA) authorizes agencies to dispense with notice and comment procedures for rules when the agency for ''good cause'' finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' The Assistant Administrator for Fisheries determined that there is good cause to waive prior notice and an opportunity for public comment on this action because this action is simply to correct an inadvertent error in the January 27 final rule (88 FR 5273) that would not change the final action. Immediate correction of the error is necessary to adequately respond to public comments received during the proposed rulemaking stage in accordance with the APA.

Under section 553(d) of the APA, an agency must delay the effective date of regulations for 30 days after the date of publication, unless the agency finds good cause to make the regulations effective sooner. For the same reasons stated above, the Assistant Administrator for Fisheries has determined good cause exists to waive the 30-day delay in the date of effectiveness. This correction only addresses a public comment but does not change the action in the January 27 final rule, which became effective on February 27, 2023, and NMFS does not anticipate in-season action on PBF until spring 2023 at the earliest. Delaying effectiveness of the January 27 final rule due to this correction would result in confusion among fishery participants and increase the risk of exceeding PBF catch limits, and would therefore be contrary to public interest.

The Regulatory Flexibility Act, 5 U.S.C. 603 and 604, requires an agency to prepare an initial and a final regulatory flexibility analysis whenever an agency is required by section 553 of the APA or any other law to publish a general notice of proposed rulemaking. Because NMFS found good cause under section 553(b)(3)(B) of the APA to forgo publication of a notice of proposed rulemaking, the regulatory flexibility analyses described in 5 U.S.C. 603 and 604 are not required for this rulemaking.

Paperwork Reduction Act

This final rule contains no collection of information requirements under the Paperwork Reduction Act of 1995.

Correction

In FR Rule Doc. 2023–01447 (88 FR 5273), appearing in the **Federal Register** on Friday, January 27, 2023, the following corrections are made:

1. On page 5273, in the second column, in the second paragraph, the last sentence is revised to read, ''NMFS received two public comments on the proposed rule, which are addressed later in this preamble.''

2. On page 5273, in the third column, above the Classification section, a new section is added to read as follows:

Public Comments and Responses

NMFS received two public comments on the proposed rule. One comment, from an individual commenter, voiced general support for management actions to conserve Pacific bluefin tuna (PBF). The other comment, from the Center for Biological Diversity, asserted that NMFS has failed to consider the impacts to protected species of the proposed rule and asked NMFS to delay publication of the final rule until an updated Endangered Species Act (ESA) consultation on the impacts of the drift gillnet fleet on humpback whales is ''complete.'' NMFS has considered the comment and will not change the final rule to implement the previously described revision in regulations. The comment included two main components, and NMFS' response to each component is below.

Component 1: The commenter asserts that, because drift gillnet catches of PBF have increased, NMFS mischaracterized these catches as ''incidental.'' The commenter also states that this is illustrated by NMFS characterizing the purse seine fleet as targeting PBF when the majority of the purse seine-caught landings, or tuna landings, are not PBF.

NMFS Response to Component 1: NMFS acknowledges the drift gillnet fleet off of the West Coast catches and retains various marketable species, including PBF. Drift gillnet has a long history of catching PBF incidentally, and it has always been a marketable species that contributes to drift gillnet revenues (see Pacific Fisheries Information Network [PacFIN] Apex Reports Highly Migratory Species SAFE Reports 003 and 009 at *https://pacfin.psmfc.org/*). PBF have become more abundant in U.S. waters in recent years and, therefore, are more likely to be caught. Additionally, this coincides with a reduction in landings (PacFIN) in recent years and anecdotal evidence from fishermen that swordfish were locally less abundant off California in 2021 and 2022, which may be the cause for the landings composition presented in the comment.

The final rule had two parts: (1) amend the in-season action announcement procedures to allow for quicker in-season action that would improve NMFS' ability to remain within the internationally-agreed PBF catch limit, and (2) disincentivize regulatory discards by allowing fish already on board to be landed within 24 hours of any in-season actions to reduce trip limits.

Regarding the second part, only the purse seine fleet is likely to be affected. The existing trip limit scheme in accordance with a final rule published on August 5, 2022 (87 FR 47939) that is applicable to 2022–2024 reduces the trip limit as cumulative catches in the year reach thresholds. The lowest trip limit in 2023–2024 will be 3 metric tons, after which the next threshold reached would result in the fishery closing. In recent years, no drift gillnet (DGN) vessel has caught more than 3 mt of PBF in a single trip. Therefore, the component allowing 24 hours to land fish after in-season actions to reduce trip limits would not apply to DGN because that fleet would only be impacted by the in-season action to close the fishery. Furthermore, as noted in the proposed rule, allowing vessels to land or transship fish on board for 24 hours after the in-season action notice is consistent with the policy in the event of a fishery closure, which has been in place since 2014, and reduces the likelihood of regulatory discards. NMFS will consider using a different term other than ''incidental'' to describe the DGN PBF fishing activities in future rulemakings; however, any changes in the use of the term will not impact implementation of the final rule.

Regarding the catch composition of the coastal purse seine fleet, NMFS notes that catches of PBF have been restricted due to an international rebuilding plan, whereas there are no international catch limits for yellowfin tuna. There are periods where the coastal purse seine fleet chooses to target species other than PBF (*e.g.,* yellowfin tuna, market squid) to make a larger profit, and it is not uncommon for a purse seine vessel to catch more yellowfin tuna than PBF on a single trip because NMFS has imposed restrictive trip limits for PBF. Ultimately, the impacts of the rule will not change whether a fleet targets PBF or catches and retains PBF incidentally because the trip limits and in-season action procedures apply regardless of intention when PBF was caught.

Component 2: The commenter argues that an ESA consultation is necessary because the proposed rule ''could increase the time that humpback whales co-occur with the California drift gillnet fishery, and thus increase entanglement risk.'' The commenter notes that ''[t]he proposed rule states that the intent behind the revised announcement procedures is efficiency: 'to allow for quicker in-season action in part because the Pacific bluefin tuna fishery may catch a lot of the catch limit in a short period of time.' '' The commenter goes on to assert: ''A more efficient fishery—one that is managed to allow a lot of Pacific bluefin tuna caught in a short period—is not necessarily good for conservation. Specifically, indiscriminate fishing increases the risk of entanglement for humpback whales. NMFS could reduce the risk of entanglement of humpback whales by limiting the fishery well before the vessels approach the bluefin tuna catch limits.''

NMFS response to Component 2: Contrary to the commenter's suggestion, taking quicker in-season action will neither result in a more efficient fishery in which a lot of PBF can be caught in a short period, nor will it result in ''indiscriminate fishing'' that increases the risk of entanglement for humpback whales. This final rule simply increases NMFS' ability to take in-season action quickly to reduce trip limits or close the fishery in a manner that aids the United States in adhering to international catch limits while avoiding regulatory discards.

With respect to the commenter's suggestion that NMFS could reduce the risk of entanglement of humpback whales by limiting the fishery well before vessels approach the catch limits, NMFS views this comment as in part directed to the existing trip limit scheme applicable to 2022–2024 (87 FR 47939, August 5, 2022), as well as the announcement procedures in the proposed rule (87 FR 70766, November 21, 2022). The trip limit scheme was modeled on the management approach in 2021 (*e.g.,* trip limits, quicker in-season action announcement, electronic landing receipts). This was recommended by the Pacific Fishery Management Council (PFMC) at its November 2021 meeting.

The PFMC recommendation and original proposed rule for 2022–2024 regulations intended to have quicker in-season action announcement procedures to support operational flexibility and reduce the risk of exceeding the internationally-agreed catch limits. NMFS proposed the new in-season action procedures to adhere to the intent behind the Council recommendation (87 FR 70766, November 21, 2022). Additional history on the more recent approaches to managing PBF may be found in the proposed rule for the 2021 regulations (86 FR 279, January 5, 2021) and the proposed rule for the 2022–2024 regulations (87 FR 12409, March 4, 2022) for PBF. Among other things, these proposed rules explain that relying solely on the **Federal Register** notice for in-season action contributed to the United States exceeding its internationally-agreed catch limit in 2017. Since then, NMFS implemented reduced trip limits and, more recently, trip limits that reduce as cumulative catches for the calendar year, quicker in-season action procedures, and a requirement for PBF buyers to submit electronic landing receipts within 24 hours of a landing. Reducing trip limits or closing a fishery earlier is outside the scope of this proposed rule because the thresholds to take in-season action have already been implemented with the August 5, 2022, final rule (87 FR 47939). While it is uncertain whether the current characteristics of the PBF fishery will continue, it is imperative we manage the fishery in a manner that improves NMFS' ability to adhere to international catch limits.

3. On page 5273, in the third column, in the Classification section, the paragraph under the header *Economic Analyses* is corrected to read:

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, for purposes of the Regulatory Flexibility Act, 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 information received during the public comment period changes the action from the proposed rule or NMFS' analysis. The Center for Biological Diversity suggested that drift gillnet vessels are incorrectly characterized as catching Pacific bluefin tuna incidentally, however, whether characterized as incidentally catching or targeting Pacific bluefin tuna in relatively small quantities does not change the factual basis for the certification published. Therefore, the initial certification published with the proposed rule—that this rule is not expected to have a significant economic impact on a substantial number of small entities—remains unchanged. As a result, a regulatory flexibility analysis was not required and none was prepared.

There are no other corrections to the final rule published on January 27, 2023.

Dated: March 22, 2023.

Samuel D. Rauch, III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2023–06337 Filed 3–27–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 230306–0065]

RTID 0648–XC365

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Final 2023 and 2024 Harvest Specifications for Groundfish

Correction

In rule document 2023–04877 beginning on page 14926 in the issue of Friday, March 10, 2023, make the following corrections:

1. Table 1, beginning on page 14928, should appear as follows:

TABLE 1—FINAL 2023 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND NON-SPECIFIED RESERVES OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2023					
		OFL	ABC	TAC	ITAC [2]	CDQ [3]	Nonspecified reserves
Pollock [4]	BS	3,381,000	1,910,000	1,300,000	1,170,000	130,000	
	AI	52,383	43,413	19,000	17,100	1,900	
	Bogoslof	115,146	86,360	300	300		
Pacific cod [5]	BS	172,495	144,834	127,409	113,776	13,633	
	AI	18,416	13,812	8,425	7,524	901	
Sablefish [6]	Alaska-wide	47,390	40,502	n/a	n/a	n/a	
	BS	n/a	8,417	7,996	6,597	1,099	300
	AI	n/a	8,884	8,440	6,858	1,424	158
Yellowfin sole	BSAI	404,882	378,499	230,000	205,390	24,610	
Greenland turbot	BSAI	4,645	3,960	3,960	3,366	n/a	
	BS	n/a	3,338	3,338	2,837	357	144
	AI	n/a	622	622	529		93
Arrowtooth flounder	BSAI	98,787	83,852	15,000	12,750	1,605	645
Kamchatka flounder	BSAI	8,946	7,579	7,579	6,442		1,137
Rock sole [7]	BSAI	166,034	121,719	66,000	58,938	7,062	
Flathead sole [8]	BSAI	79,256	65,344	35,500	31,702	3,799	
Alaska plaice	BSAI	40,823	33,946	17,500	14,875		2,625
Other flatfish [9]	BSAI	22,919	17,189	4,500	3,825		675
Pacific ocean perch	BSAI	50,133	42,038	37,703	33,157	n/a	
	BS	n/a	11,903	11,903	10,118		1,785
	EAI	n/a	8,152	8,152	7,280	872	
	CAI	n/a	5,648	5,648	5,044	604	
	WAI	n/a	16,335	12,000	10,716	1,284	
Northern rockfish	BSAI	22,776	18,687	11,000	9,350		1,650
Blackspotted/Rougheye rockfish [10]	BSAI	703	525	525	446		79
	BS/EAI	n/a	359	359	305		54
	CAI/WAI	n/a	166	166	141		25
Shortraker rockfish	BSAI	706	530	530	451		80
Other rockfish [11]	BSAI	1,680	1,260	1,260	1,071		189
	BS	n/a	880	880	748		132
	AI	n/a	380	380	323		57
Atka mackerel	BSAI	118,787	98,588	69,282	61,869	7,413	
	BS/EAI	n/a	43,281	27,260	24,343	2,917	
	CAI	n/a	17,351	17,351	15,494	1,857	
	WAI	n/a	37,956	24,671	22,031	2,640	
Skates	BSAI	46,220	38,605	27,441	23,325		4,116
Sharks	BSAI	689	450	250	213		38
Octopuses	BSAI	4,769	3,576	400	340		60
Total		4,859,585	3,155,268	2,000,000	1,789,662	196,564	13,773

Note: Regulatory areas and districts are defined at § 679.2 (BSAI=Bering Sea and Aleutian Islands management area, BS=Bering Sea subarea, AI=Aleutian Islands subarea, EAI=Eastern Aleutian district, CAI=Central Aleutian district, WAI=Western Aleutian district).

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea subarea (BS) includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to fixed gear, and Amendment 80 species (Atka mackerel, yellowfin sole, rock sole, flathead sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 15 percent of each TAC is placed into a non-specified reserve (§ 679.20(b)(1)(i)). The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 4).

[3] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C)). 20 percent of the sablefish TAC allocated to fixed gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, Kamchatka flounder, northern rockfish, shortraker rockfish, blackspotted/rougheye rockfish, ''other rockfish,'' skates, sharks, and octopuses are not allocated to the CDQ program.

[4] Under § 679.20(a)(5)(i)(A), the annual BS pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (50,000 mt), is further allocated by sector for a pollock directed fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,500 mt), is allocated to the Aleut Corporation for a pollock directed fishery.

[5] The BS Pacific cod TAC is set to account for the 12 percent, plus 45 mt, of the BS ABC for the State of Alaska's (State) guideline harvest level in State waters of the BS. The AI Pacific cod TAC is set to account for 39 percent of the AI ABC for the State guideline harvest level in State waters of the AI.

[6] The sablefish OFL and ABC are Alaska-wide and include the Gulf of Alaska. The Alaska-wide sablefish OFL and ABC are included in the total OFL and ABC. The BS and AI sablefish TACs are set to account for the 5 percent of the BS and AI ABC for the State of Alaska's (State) guideline harvest level in State waters of the BS and AI.

[7] ''Rock sole'' includes *Lepidopsetta polyxystra* (Northern rock sole) and *Lepidopsetta bilineata* (Southern rock sole).

[8] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[9] ''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

[10] ''Blackspotted/Rougheye rockfish'' includes *Sebastes melanostictus* (blackspotted) and *Sebastes aleutianus* (rougheye).

[11] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for dark rockfish, Pacific ocean perch, northern rockfish, blackspotted/rougheye rockfish, and shortraker rockfish.

2. Table 2, beginning on page 14930, should appear as follows:

TABLE 2—FINAL 2024 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND NON-SPECIFIED RESERVES OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2024					
		OFL	ABC	TAC	ITAC [2]	CDQ [3]	Nonspecified reserves
Pollock [4]	BS	4,639,000	2,275,000	1,302,000	1,171,800	130,200	
	AI	52,043	43,092	19,000	17,100	1,900	
	Bogoslof	115,146	86,360	300	300		
Pacific cod [5]	BS	166,814	140,159	123,295	110,102	13,193	
	AI	18,416	13,812	8,425	7,524	901	
Sablefish [6]	Alaska-wide	48,561	41,539	n/a	n/a	n/a	
	BS	n/a	10,185	9,676	4,112	363	363
	AI	n/a	10,308	9,793	2,081	184	184
Yellowfin sole	BSAI	495,155	462,890	230,656	205,976	24,680	
Greenland turbot	BSAI	3,947	3,364	3,364	2,859	n/a	
	BS	n/a	2,836	2,836	2,411	303	122
	AI	n/a	528	528	449		79
Arrowtooth flounder	BSAI	103,070	87,511	15,000	12,750	1,605	645
Kamchatka flounder	BSAI	8,776	7,435	7,435	6,320		1,115
Rock sole [7]	BSAI	196,011	119,969	66,000	58,938	7,062	
Flathead sole [8]	BSAI	81,167	66,927	35,500	31,702	3,799	
Alaska plaice	BSAI	43,328	36,021	18,000	15,300		2,700
Other flatfish [9]	BSAI	22,919	17,189	4,500	3,825		675
Pacific ocean perch	BSAI	49,279	41,322	38,264	33,667	n/a	
	BS	n/a	11,700	11,700	9,945		1,755
	EAI	n/a	8,013	8,013	7,156	857	
	CAI	n/a	5,551	5,551	4,957	594	
	WAI	n/a	16,058	13,000	11,609	1,391	
Northern rockfish	BSAI	22,105	18,135	11,000	9,350		1,650
Blackspotted/Rougheye rockfish [10]	BSAI	763	570	570	485		86
	BS/EAI	n/a	388	388	330		58
	CAI/WAI	n/a	182	182	155		27
Shortraker rockfish	BSAI	706	530	530	451		80
Other rockfish [11]	BSAI	1,680	1,260	1,260	1,071		189
	BS	n/a	880	880	748		132
	AI	n/a	380	380	323		57
Atka mackerel	BSAI	101,188	86,464	66,855	59,702	7,153	
	EAI/BS	n/a	37,958	30,000	26,790	3,210	
	CAI	n/a	15,218	15,218	13,590	1,628	
	WAI	n/a	33,288	21,637	19,322	2,315	
Skates	BSAI	44,168	36,837	27,927	23,738		4,189
Sharks	BSAI	689	450	250	213		38

TABLE 2—FINAL 2024 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), CDQ RESERVE ALLOCATION, AND NON-SPECIFIED RESERVES OF GROUNDFISH IN THE BSAI [1]—Continued

[Amounts are in metric tons]

Species	Area	2024					
		OFL	ABC	TAC	ITAC [2]	CDQ [3]	Nonspecified reserves
Octopuses	BSAI	4,769	3,576	400	340	.....	60
Total		6,219,700	3,590,412	2,000,000	1,779,703	194,185	13,928

Note: Regulatory areas and districts are defined at § 679.2 (BSAI=Bering Sea and Aleutian Islands management area, BS=Bering Sea subarea, AI=Aleutian Islands subarea, EAI=Eastern Aleutian district, CAI=Central Aleutian district, WAI=Western Aleutian district).

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea subarea (BS) includes the Bogoslof District.

[2] Except for pollock, the portion of the sablefish TAC allocated to fixed gear, and Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 15 percent of each TAC is put into a non-specified reserve (§ 679.20(b)(1)(i)). The ITAC for these species is the remainder of the TAC after the subtraction of these reserves. For pollock and Amendment 80 species, ITAC is the non-CDQ allocation of TAC (see footnotes 3 and 4).

[3] For the Amendment 80 species (Atka mackerel, flathead sole, rock sole, yellowfin sole, Pacific cod, and Aleutian Islands Pacific ocean perch), 10.7 percent of the TAC is reserved for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C)). 20 percent of the sablefish TAC allocated to fixed gear, 7.5 percent of the sablefish TAC allocated to trawl gear, and 10.7 percent of the TACs for Bering Sea Greenland turbot and arrowtooth flounder are reserved for use by CDQ participants (see § 679.20(b)(1)(ii)(B) and (D)). The 2024 fixed gear portion of the sablefish ITAC and CDQ reserve will not be specified until the final 2024 and 2025 harvest specifications. Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, Kamchatka flounder, northern rockfish, shortraker rockfish, blackspotted/rougheye rockfish, ''other rockfish,'' skates, sharks, and octopuses are not allocated to the CDQ program.

[4] Under § 679.20(a)(5)(i)(A), the annual BS pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (50,000 mt), is further allocated by sector for a pollock directed fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (2,500 mt), is allocated to the Aleut Corporation for a pollock directed fishery.

[5] The BS Pacific cod TAC is set to account for the 12 percent, plus 45 mt, of the BS ABC for the State of Alaska's (State) guideline harvest level in State waters of the BS. The AI Pacific cod TAC is set to account for 39 percent of the AI ABC for the State guideline harvest level in State waters of the AI.

[6] The sablefish OFL and ABC are Alaska-wide and include the Gulf of Alaska. The Alaska-wide sablefish OFL and ABC are included in the total OFL and ABC. The BS and AI sablefish TACs are set to account for the 5 percent of the BS and AI ABC for the State of Alaska's (State) guideline harvest level in State waters of the BS and AI.

[7] ''Rock sole'' includes *Lepidopsetta polyxystra* (Northern rock sole) and *Lepidopsetta bilineata* (Southern rock sole).

[8] ''Flathead sole'' includes *Hippoglossoides elassodon* (flathead sole) and *Hippoglossoides robustus* (Bering flounder).

[9] ''Other flatfish'' includes all flatfish species, except for halibut (a prohibited species), Alaska plaice, arrowtooth flounder, flathead sole, Greenland turbot, Kamchatka flounder, rock sole, and yellowfin sole.

[10] ''Blackspotted/Rougheye rockfish'' includes *Sebastes melanostictus* (blackspotted) and *Sebastes aleutianu*s (rougheye).

[11] ''Other rockfish'' includes all *Sebastes* and *Sebastolobus* species except for dark rockfish, Pacific ocean perch, northern rockfish, blackspotted/rougheye rockfish, and shortraker rockfish.

3. Table 8, appearing on page 14937, should appear as follows:

TABLE 8—FINAL 2023 SECTOR ALLOCATIONS AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Sector	Percent	2023 share of total	2023 share of sector total	2023 seasonal apportionment	
				Season	Amount
BS TAC	n/a	127,409	n/a	n/a	n/a
BS CDQ	n/a	13,633	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	113,776	n/a	n/a	n/a
AI TAC	n/a	8,425	n/a	n/a	n/a
AI CDQ	n/a	901	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	7,524	n/a	n/a	n/a
Area 543 Western Aleutian Island Limit	n/a	2,233	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	121,300	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	73,750	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	73,250	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	58,672	Jan 1–Jun 10	29,923
				Jun 10–Dec 31	28,750
Hook-and-line catcher vessel ≥60 ft LOA	0.2	n/a	241	Jan 1–Jun 10	123
				Jun 10–Dec 31	118
Pot catcher/processor	1.5	n/a	1,807	Jan 1–Jun 10	922
				Sept 1–Dec 31	886
Pot catcher vessel ≥60 ft LOA	8.4	n/a	10,120	Jan 1–Jun 10	5,161
				Sept 1–Dec 31	4,959
Catcher vessel <60 ft LOA using hook-and-line or pot gear	2.0	n/a	2,410	n/a	n/a

TABLE 8—FINAL 2023 SECTOR ALLOCATIONS AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Sector	Percent	2023 share of total	2023 share of sector total	2023 seasonal apportionment	
				Season	Amount
Trawl catcher vessel	22.1	26,807	n/a	Jan 20–Apr 1	19,837
				Apr 1–Jun 10	2,949
				Jun 10–Nov 1	4,021
AFA trawl catcher/processor	2.3	2,790	n/a	Jan 20–Apr 1	2,092
				Apr 1–Jun 10	697
				Jun 10–Nov 1	
Amendment 80	13.4	16,254	n/a	Jan 20–Apr 1	12,191
				Apr 1–Jun 10	4,064
				Jun 10–Dec 31	
Jig	1.4	1,698	n/a	Jan 1–Apr 30	1,019
				Apr 30–Aug 31	340
				Aug 31–Dec 31	340

Note: Seasonal or sector apportionments may not total precisely due to rounding.

[1] The sector allocations and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of the reserves for the CDQ program. If the TAC for Pacific cod in either the AI or BS is or will be reached, then directed fishing for non-CDQ Pacific cod in that subarea will be prohibited, even if a BSAI allowance remains (§ 679.20(d)(1)(iii)).

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2023 based on anticipated incidental catch by these sectors in other fisheries.

4. Table 9, beginning on page 14937, should appear as follows:

TABLE 9—FINAL 2024 SECTOR ALLOCATIONS AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Sector	Percent	2024 share total	2024 share of sector total	2024 seasonal apportionment	
				Season	Amount
BS TAC	n/a	123,295	n/a	n/a	n/a
BS CDQ	n/a	13,193	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	110,102	n/a	n/a	n/a
AI TAC	n/a	8,425	n/a	n/a	n/a
AI CDQ	n/a	901	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	7,524	n/a	n/a	n/a
Area 543 Western Aleutian Island Limit	n/a	2,233	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	n/a	117,626	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	71,517	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	500	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	71,017	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	56,883	Jan 1–Jun 10	29,011
				Jun 10–Dec 31	27,873
Hook-and-line catcher vessel ≥60 ft LOA	0.2	n/a	234	Jan 1–Jun 10	119
				Jun 10–Dec 31	114
Pot catcher/processor	1.5	n/a	1,752	Jan 1–Jun 10	894
				Sept 1–Dec 31	859
Pot catcher vessel ≥60 ft LOA	8.4	n/a	9,812	Jan 1–Jun 10	5,004
				Sept 1–Dec 31	4,808
Catcher vessel <60 ft LOA using hook-and-line or pot gear	2.0	n/a	2,336	n/a	n/a
Trawl catcher vessel	22.1	25,995	n/a	Jan 20–Apr 1	19,237
				Apr 1–Jun 10	2,859
				Jun 10–Nov 1	3,899
AFA trawl catcher/processor	2.3	2,705	n/a	Jan 20–Apr 1	2,029
				Apr 1–Jun 10	676
				Jun 10–Nov 1	
Amendment 80	13.4	15,762	n/a	Jan 20–Apr 1	11,821
				Apr 1–Jun 10	3,940
				Jun 10–Dec 31	
Jig	1.4	1,647	n/a	Jan 1–Apr 30	988
				Apr 30–Aug 31	329
				Aug 31–Dec 31	329

Note: Seasonal or sector apportionments may not total precisely due to rounding.

[1] The sector allocations and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of the reserves for the CDQ program. If the TAC for Pacific cod in either the AI or BS is or will be reached, then directed fishing for non-CDQ Pacific cod in that subarea will be prohibited, even if a BSAI allowance remains (§ 679.20(d)(1)(iii)).

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 500 mt for 2024 based on anticipated incidental catch by these sectors in other fisheries.

[FR Doc. C1–2023–04877 Filed 3–27–23; 8:45 am]

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Proposed Rules

Federal Register
Vol. 88, No. 59
Tuesday, March 28, 2023

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2023–0438; Project Identifier 2015–NM–065–AD]

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 remove Airworthiness Directive (AD) 2016–15–01, which applies to all Airbus SAS Model A300 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. AD 2016–15–01 requires an inspection to determine trimmable horizontal stabilizer actuator (THSA) part numbers, serial numbers, and flight cycles on certain THSAs; and repetitive replacement of certain THSAs. AD 2016–15–01 is no longer necessary, because the FAA has issued AD 2022–25–12 to terminate AD 2016–15–01 for Model A310 series airplanes and an NPRM that would terminate AD 2016–15–01 for Model A300–600 series airplanes. The FAA has also determined that the inclusion of the Model A300 series airplanes in the applicability of AD 2016–15–01 was an inadvertent error. Accordingly, the FAA proposes to remove AD 2016–15–01.

DATES: The FAA must receive comments on this proposed AD by May 12, 2023.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *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–2023–0438; 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, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2023–0438; Project Identifier 2015–NM–065–AD'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposed AD.

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 Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@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 2016–15–01, Amendment 39–18592 (81 FR 47696, July 22, 2016) (AD 2016–15–01), for Airbus SAS Model A300 series airplanes; Model A300–600 series airplanes; and Model A310 series airplanes. AD 2016–15–01 requires an inspection to determine THSA part numbers, serial numbers, and flight cycles on certain THSAs; and repetitive replacement of certain THSAs. AD 2016–15–01 was prompted by reports of partial loss of no-back brake (NBB) efficiency on the THSA. The FAA issued AD 2016–15–01 to prevent loss of THSA NBB efficiency, which, in conjunction with the inability of the power gear to keep the ball screw in its last commanded position, could lead to an uncommanded movement of the horizontal stabilizer, possibly resulting in loss of control of the airplane.

Actions Since AD 2016–15–01 Was Issued

Since the FAA issued AD 2016–15–01, the European Union Aviation Safety Agency (EASA) issued AD 2015–0081–CN, dated October 7, 2022, to cancel EASA AD 2015–0081. EASA AD 2015–0081–CN states that EASA ADs 2022–0194 and 2022–0195, both dated September 23, 2022, require incorporating new airworthiness tasks, which include the replacement of

certain THSAs, as required by EASA AD 2015–0081 (which corresponds to FAA AD 2016–15–01).

The FAA has issued AD 2022–25–12, Amendment 39–22268 (87 FR 78518, December 22, 2022) (AD 2022–25–12) which addresses the same unsafe condition for the Airbus SAS Model A310 series airplanes. AD 2022–25–12 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2022–0195.

The FAA has also issued an NPRM, Docket No. FAA–2022–1660 (88 FR 2035, January 12, 2023) to address the same unsafe condition for the Airbus SAS Model A300–600 series airplanes. In that NPRM, the FAA proposed to require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, as specified in EASA AD 2022–0194.

The FAA has also determined that the Airbus SAS Model A300 series airplanes are not affected by the unsafe condition addressed by AD 2016–15–01. The inclusion of the Model A300 series airplanes in the applicability of AD 2016–15–01 was an inadvertent error.

FAA's Conclusions

Upon further consideration, the FAA has determined that AD 2016–15–01 is no longer necessary. Accordingly, this proposed AD would remove AD 2016–15–01. Removal of AD 2016–15–01 would not preclude the FAA from issuing another related action or commit the FAA to any course of action in the future. This proposed AD would remove all actions of AD 2016–15–01. Therefore, this proposed AD would terminate all requirements of AD 2016–15–01.

Related Costs of Compliance

This proposed AD would add no cost. This proposed AD would remove AD 2016–15–01 from 14 CFR part 39; therefore, operators would no longer be required to show compliance with that AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority.

Regulatory Findings

The FAA has determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive 2016–15–01, Amendment 39–18592 (81 FR 47696, July 22, 2016), and

■ b. Adding the following new airworthiness directive:

Airbus SAS: Docket No. FAA–2023–0438; Project Identifier 2015–NM–065–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by May 12, 2023.

(b) Affected Airworthiness Directives (ADs)

This AD replaces AD 2016–15–01, Amendment 39–18592 (81 FR 47696, July 22, 2016).

(c) Applicability

This AD applies to the Airbus SAS airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 F4–605R and F4–622R airplanes.

(5) Model A300 C4–605R Variant F airplanes.

(6) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 27, Flight controls.

(e) Terminating Action

This AD terminates all requirements of AD 2016–15–01.

(f) Related Information

For more information about this AD, contact Dan Rodina, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3225; email *dan.rodina@faa.gov.*

(g) Material Incorporated by Reference

None.

Issued on March 17, 2023.

Christina Underwood,

Acting Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2023–05941 Filed 3–27–23; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2023–0502; Airspace Docket No. 23–ASO–09]

RIN 2120–AA66

Amendment of Class E Airspace; Augusta, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace extending upward from 700 feet above the surface in Augusta, GA as the result of new procedures developed for the Augusta University Medical Center and Children's Hospital of Georgia Heliport. This action would establish the Class E airspace extending upward from 700 feet above the surface within a 6-mile

radius of the Augusta University Medical Center and Children's Hospital of Georgia. The FAA also proposes to update the geographical coordinates for the Emory non-directional beacon (NDB) in the Augusta Class E5 legal description to align with information located in the FAA's database.

DATES: Comments must be received on or before May 12, 2023.

ADDRESSES: Send comments identified by FAA Docket No. FAA–2023–0502 and Airspace Docket No. 23–ASO–09 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.

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.*

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

FOR FURTHER INFORMATION CONTACT: Jennifer Ledford, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone: (404) 305–5649.

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 controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

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.

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 Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Ave., College Park, GA 30337.

Incorporation by Reference

The Class E airspace designation is published in paragraph 6005 of FAA Order JO 7400.11, 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 7400.11G, dated August 19, 2022 and effective September 15, 2022. 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 7400.11G lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend Class E airspace extending upward from 700 feet above the surface in Augusta, GA by establishing Class E airspace extending upward from the surface within a 6-mile radius of the Augusta University Medical Center and Children's Hospital of Georgia. This airspace would allow medical transport helicopters to fly during inclement weather, and would be included in the Augusta, GA Class E5 legal description. In addition, this action would update the Emory NDB geographical coordinates in the Augusta, GA Class E5 legal description to align with the information found in the FAA's database.

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 7400.11G, Airspace Designations and Reporting Points, dated August 19, 2022, and effective September 15, 2022, is amended as follows:

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

* * * * *

ASO GA E5 Augusta, GA [Amend]

Augusta Regional Airport at Bush Field, GA
(Lat. 33°22′12″ N, long. 81°57′52″ W)
Daniel Field
(Lat. 33°28′00″ N, long. 82°02′22″ W)
Augusta University Medical Center and Children's Hospital of Georgia
(Lat. 33°28′17″ N, long. 81°59′17″ W)
Emory NDB
(Lat. 33°27′46″ N, long. 81°59′47″ W)

That airspace extending upward from 700 feet above the surface within an 8.6-mile radius of Augusta Regional Airport at Bush Field, and within 3.2 miles either side of the 168° bearing from the airport extending from the 8.6-mile radius to 12.5 miles south of the airport, and within a 7-mile radius of Daniel Field, and within a 6-mile radius of Augusta University Medical Center and Children's Hospital of Georgia, and within 8 miles west and 4 miles east of the 349° bearing from the Emory NDB extending from the 7-mile radius of Daniel Field and the 6-mile radius of Augusta University Medical Center and Children's Hospital of Georgia to 16 miles north of the Emory NDB.

Issued in College Park, GA, on March 22, 2023.

Andreese C. Davis,

Manager, Airspace & Procedures Team South, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2023–06329 Filed 3–27–23; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 456

RIN 3084–AB37

Public Workshop Examining Proposed Changes to the Ophthalmic Practice Rules (Eyeglass Rule)

AGENCY: Federal Trade Commission.

ACTION: Public workshop and request for public comment.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') will hold a public workshop relating to its January 3, 2023, notice of proposed rulemaking (''NPRM'') announcing proposed changes to the Ophthalmic Practice Rules (''Eyeglass Rule'' or ''Rule''). The workshop may address the proposed confirmation of prescription release requirement for eyeglass prescriptions, consumers' and prescribers' experiences with the implementation of a similar requirement for contact lens prescriptions, other proposed changes to the Rule, and other issues raised in comments received in response to the NPRM.

DATES: The public workshop will be held on May 18, 2023, from 9:00 a.m. until 1:00 p.m. ET, at the Constitution Center Conference Center. The workshop will also be available for viewing via live webcast. Requests to participate as a panelist must be received by April 7, 2023. Any written comments related to the agenda topics or the issues discussed by the panelists at the workshop must be received by June 20, 2023. Interested parties may file a comment or a request to participate as a panelist online or on paper by following the instructions in Part IV of the **SUPPLEMENTARY INFORMATION** section below.

ADDRESSES: The workshop will take place in the Conference Center within the Constitution Center building, which is located at 400 7th Street SW, Washington, DC 20024. The workshop will also be available for viewing via live webcast on the FTC's website at *https://www.ftc.gov/news-events/events/2023/05/clear-look-eyeglass-rule.*

FOR FURTHER INFORMATION CONTACT: Sarah Botha, Attorney, (202) 326–2036, Alysa Bernstein, Attorney, (202) 326–3289, or Paul Spelman, Attorney, (202) 326–2487, Division of Advertising Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission promulgated the Eyeglass Rule [1] in 1978 under Section 18 of the FTC Act, which grants the Commission the authority to adopt rules defining unfair or deceptive acts or practices in or affecting commerce.[2] The Rule declares it an unfair act or practice for ophthalmologists or optometrists to fail to provide one copy of a patient's prescription to the patient immediately after completion of an eye examination.[3] The Rule also prohibits the prescriber from charging the patient any fee in addition to the prescriber's examination fee as a condition to releasing the prescription to the patient.[4] The Rule protects consumers and promotes competition in the retail sale of eyeglasses by ensuring consumers have unconditional access to their prescriptions so they can comparison-shop for eyeglasses.

As part of its ongoing regulatory review program, the Commission published an advance notice of proposed rulemaking (''ANPR'') in September 2015 seeking public comment on, among other things: the continuing need for the Rule; the Rule's economic impact and benefits; possible conflict between the Rule and state, local, or other federal laws or regulations; and the effect on the Rule of any technological, economic, or other industry changes. The Commission also sought comment on the following

[1] *See* 16 CFR part 456.

[2] 15 U.S.C. 57a(a)(1)(B).

[3] 16 CFR 456.2(a). A prescriber may withhold a patient's prescription until the patient has paid for the eye examination, but only if the prescriber would have required immediate payment if the examination had revealed that no ophthalmic goods were needed. *Id.*

[4] 16 CFR 456.2(c). The Rule further prohibits an optometrist or ophthalmologist from conditioning the availability of an eye examination on a requirement that the patient agree to purchase ophthalmic goods from the optometrist or ophthalmologist. 16 CFR 456.2(b). The Rule also deems it an unfair act or practice for the prescriber to place on the prescription, or require the patient to sign, or deliver to the patient a waiver or disclaimer of prescriber liability or responsibility for the accuracy of the exam or the ophthalmic goods and services dispensed by another seller. 16 CFR 456.2(d).

specific questions: should the definition of ''prescription'' be modified to include pupillary distance; should the Rule be extended to require that prescribers provide their patients with a duplicate copy of a prescription; and should the Rule be extended to require that a prescriber provide a copy to, or verify a prescription with, third parties authorized by the patient.[5] The comment period closed on October 26, 2015, and the Commission received 868 comments.[6] Virtually all commenters agreed that there is a continuing need for the Rule and that it benefits consumers and competition, although commenters differed in their opinions regarding whether the Commission should amend the Rule. Consumers and retailers, including many opticians, were generally in favor of modifying the Rule to increase consumer access to prescriptions, improve compliance with the Rule, and facilitate consumers' ability to purchase eyeglasses at the retailer of their choice, including from online retailers, while prescribers were frequently opposed to the specific amendments discussed in the ANPR.

In 2020, the FTC amended the Contact Lens Rule[7] to require contact lens prescribers to obtain a signed acknowledgment after releasing a contact lens prescription to a patient, and maintain each such acknowledgment for a period of not less than three years.[8] The amended Contact Lens Rule also defined the term ''provide the patient a copy'' to allow prescribers, with the patient's verifiable consent, to give the patient a digital copy of their prescription instead of a paper copy. It also obligated prescribers to provide a duplicate copy of a prescription within 40 business hours, and imposed new rules for sellers regarding verification requests and prescription alterations.[9]

After reviewing the public comments to the Eyeglass Rule ANPR, and considering the rulemaking record for the 2020 Contact Lens Rule amendments, the Commission, on January 3 2023, published the NPRM, proposing to amend the Eyeglass Rule to require that prescribers obtain a signed acknowledgment after releasing an eyeglass prescription to a patient, and maintain each such acknowledgment for a period of not less than three years.[10] The Commission also proposed to define the term ''provide to the patient one copy'' to allow prescribers, with the patient's verifiable consent, to give the patient a digital copy of their prescription instead of a paper copy, and to clarify that presentation of proof of insurance coverage shall be deemed to be a payment for the purpose of determining when a prescription must be provided. These three amendments would align the Eyeglass Rule's prescription release provisions with those of the Contact Lens Rule. Finally, the Commission proposed a technical amendment to change the term ''eye examination'' to ''refractive eye examination'' throughout the Rule.

In its NPRM, the Commission sought public comment on the likely effects of these proposed amendments, including information about the costs and benefits and any regulatory alternatives to the proposed changes. The Commission also asked about any changes in technology, in the marketplace, or to state regulations pertaining to pupillary distance, that the Commission should consider. The Commission received 27 comments in response.[11] Several comments, including those of consumers, consumer groups, and retailers, supported the proposed changes, noting that access to eyeglass prescriptions allows consumers to comparison shop for eyeglasses and increases competition in the prescription eyeglasses marketplace. Comments also supported increased enforcement to encourage compliance with the Rule. Comments from individual prescribers, as well as certain national prescriber and optician organizations, generally opposed the proposed confirmation requirement, primarily on the grounds that confirming prescription receipt is unnecessary and would lead to increased costs to prescribers. Some comments also addressed the other proposed Rule changes. Commenters expressed support for the proposed amendment that would expressly permit digital prescription delivery with a patient's verifiable consent, but had differing views on whether to amend the Rule to allow proof of insurance coverage to constitute payment and to replace the term ''eye examination'' with the term ''refractive eye examination.'' Commenters also expressed a variety of opinions on whether the Rule should require inclusion of pupillary distance on the prescription.

II. Issues for Discussion at the Workshop

As part of the Eyeglass Rule regulatory review, the FTC is hosting a public workshop to explore information relating to the Rule changes proposed in the NPRM. The workshop may cover such topics as: (1) the costs and benefits to both consumers and eye care professionals of the proposed confirmation of prescription release requirement for eyeglass prescriptions; (2) consumers' and prescribers' experiences with the implementation of the similar confirmation of prescription release requirement for contact lens prescriptions; and (3) the likely impact of the proposed modifications to the Eyeglass Rule to foster competition and maximize consumer benefits.

A more detailed agenda will be published at a later date, in advance of the scheduled workshop.

III. Public Participation Information

A. Workshop Attendance

The workshop is free and open to the public, and will be held at the Constitution Center, 400 7th Street SW, Washington, DC. For admittance to the Constitution Center, all attendees must show valid government-issued photo identification, such as a driver's license. Please arrive early enough to allow adequate time for this process. The workshop will also be available for viewing via live webcast on the FTC's website at *https://www.ftc.gov/news-events/events/2023/05/clear-look-eyeglass-rule.*

This event may be photographed, videotaped, webcast, or otherwise recorded. By participating in this event, you are agreeing that your image—and anything you say or submit—may be posted indefinitely at *https://www.ftc.gov* or on one of the Commission's publicly available social media sites.

B. Requests To Participate as a Panelist

The workshop will be organized into one or more panels, which will address the designated topics. Panelists will be selected by FTC staff. Other attendees will have an opportunity to comment and ask questions. The Commission will place a transcript of the proceeding on the public record. Requests to participate as a panelist must be received on or before April 7, 2023, as explained in Section IV below. Persons

[5] Ophthalmic Practice Rules (Eyeglass Rule), Advance Notice of Proposed Rulemaking; Request for Comment, 80 FR 53274, 53276 (Sept. 3, 2015).

[6] The comments are posted at: *https://www.regulations.gov/document/FTC-2015-0095-0001.*

[7] While slightly different from the Eyeglass Rule, the Contact Lens Rule has many similar requirements, including that prescribers release prescriptions to patients without charge.

[8] Contact Lens Rule, Final Rule, 85 FR 50668 (Aug. 17, 2020).

[9] *See* 16 CFR part 315.

[10] Ophthalmic Practice Rules (Eyeglass Rule), Notice of Proposed Rulemaking; Request for Public Comment, 88 FR 248 (Jan. 3, 2023).

[11] The comments are posted at: *https://www.regulations.gov/document/FTC-2023-0001-0001/comment.*

selected as panelists will be notified on or before April 21, 2023.

Disclosing funding sources promotes transparency, ensures objectivity, and maintains the public's trust. If chosen, prospective panelists will be required to disclose the source of any support they received in connection with participation at the workshop. This information will be included in the published panelist bios as part of the workshop record.

C. Electronic and Paper Comments

The submission of comments is not required for participation in the workshop. If a person wishes to submit paper or electronic comments related to the agenda topics or the issues discussed by the panelists at the workshop, such comments should be filed as prescribed in Section IV, and must be received on or before June 20, 2023.

IV. Filing Comments and Requests To Participate as a Panelist

You can file a comment, or request to participate as a panelist, online or on paper. For the Commission to consider your comment, we must receive it on or before June 20, 2023. For the Commission to consider your request to participate as panelist, we must receive it by April 7, 2023. Write ''Eyeglass Rule, Comment, Project No. R511996'' on your comment, and ''Eyeglass Rule, Request to Participate, Project No. R511996'' on your request to participate as a panelist. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the publicly available website, *https://www.regulations.gov.*

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by overnight service. To make sure the Commission considers your online comment, you must file it at *https://www.regulations.gov.*

Because your comment will be placed on the public record, you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record.[12] Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on *https://www.regulations.gov,* we cannot redact or remove your comment, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Requests to participate as a panelist at the workshop should be submitted electronically to *eyeglassworkshop2023@ftc.gov,* or, if mailed, should be submitted in the manner detailed below. Parties are asked to include in their requests a brief statement setting forth their expertise in or knowledge of the issues on which the workshop will focus as well as their contact information, including a telephone number and email address (if available), to enable the FTC to notify them if they are selected.

If you file your comment or request to participate on paper, write ''Eyeglass Rule, Comment, Project No. R511996'' on your comment, and ''Eyeglass Rule, Request to Participate, Project No. R511996'' on your request to participate as a panelist. Please mail your comment or request to participate to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex W), Washington, DC 20580.

Visit the Commission website at *https://www.ftc.gov* to read this document and the news release describing it. The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 20, 2023. The Commission will consider all timely requests to participate as a panelist in the workshop that it receives by April 7, 2023. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

V. Communications by Outside Parties to Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding from any outside party to any Commissioner or Commissioner's advisor will be placed on the public record.[13]

By direction of the Commission, Commissioner Wilson not participating.

Joel Christie,

Acting Secretary.

[FR Doc. 2023–06338 Filed 3–27–23; 8:45 am]

BILLING CODE 6750–01–P

[12] *See* FTC Rule 4.9(c).

[13] *See* 16 CFR 1.26(b)(5).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 92, 93, 200, 574, 576, 578, 880, 882, 884, 886, 888, 902, 982, 983, and 985

[Docket No. FR–6086–N–04]

RIN 2577–AD05

Request for Comments: National Standards for the Physical Inspection of Real Estate and Associated Protocols, Proposed Scoring Notice

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Office of the Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development, (HUD).

ACTION: Request for public comment.

SUMMARY: This request for public comment serves as a complementary document to the Economic Growth Regulatory Relief and Consumer Protection Act: Implementation of National Standards for the Physical Inspection of Real Estate (NSPIRE) proposed rule. The proposed rule provided that HUD would publish in

the **Federal Register** the NSPIRE inspection standards and scoring methodology to assess the overall condition, health, and safety of properties and units assisted or insured by HUD. The NSPIRE Standards were published for public comment on June 17, 2022. HUD now seeks public review and comment on the proposed NSPIRE physical inspection scoring and ranking methodology to implement HUD's final NSPIRE rule for Public Housing and Multifamily Housing programs, including Section 8 Project-Based Rental Assistance (PBRA) and other Multifamily assisted housing, Section 202/811 programs, and HUD-insured Multifamily as described in the NSPIRE proposed rule. The scoring methodology converts observed defects into a numerical score and sets a threshold for HUD to perform additional administrative oversight by establishing a level for when a property fails an inspection (less than 60 points) and when an enforcement referral is automatic or required (less than or equal to 30 points). HUD will consider comments received in response to this request before publishing a final NSPIRE Scoring notice in the **Federal Register**.

DATES: *Comment Due Date:* April 27, 2023.

ADDRESSES: There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. *Electronic Submission of Comments.* Comments may be submitted electronically through the Federal eRulemaking Portal at *https://www.regulations.gov/.* HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make comments immediately available to the public. Comments submitted electronically through the website can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that website to submit comments electronically.

2. *Submission of Comments by Mail.* Comments may also be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington, DC 20410–0500. Due to security measures at all Federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt, HUD recommends that comments be mailed at least 2 weeks in advance of the public comment deadline.

Note: To receive consideration as public comments, comments must be submitted using one of the two methods specified above.

Public Inspection of Comments. HUD will make all properly submitted comments and communications available for public inspection and copying during regular business hours at the above address. Due to security measures at the HUD Headquarters building, you must schedule an appointment in advance to review the public comments by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.* Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Tara J. Radosevich, Real Estate Assessment Center, Office of Public and Indian Housing, Department of Housing and Urban Development, 550 12th Street SW, Suite 100, Washington, DC 20410–4000, telephone number 612–370–3009 (this is not a toll-free number), email *NSPIRERegulations@hud.gov.* HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit: *https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Current Standards and Scoring

There are currently two assessment methodologies used by HUD to ascertain the quality and health and safety of HUD-assisted and insured properties and units: (1) Pass/Fail, used for the Housing Quality Standards (HQS) for the Housing Choice Voucher (HCV) and Project-based Voucher (PBV) programs; and (2) a zero to 100-point (0–100) scale used for properties inspected under the Uniform Physical Condition Standards (UPCS) for public housing and properties managed by HUD's Office of Multifamily Housing Programs.[1]

B. NSPIRE Proposed Rule and Timeline

On January 13, 2021, HUD published the NSPIRE proposed rule [2] to implement one of NSPIRE's core objectives—the formal alignment of expectations of housing quality and consolidation of inspection standards across HUD programs.

In the proposed rule, HUD stated its intent to publish updates to the NSPIRE standards and scoring methodology through future **Federal Register** notices at least once every three years with an opportunity for public comment. The draft NSPIRE Standards were published in the **Federal Register** on June 17, 2022.[3] This notice provides an opportunity to comment on the draft NSPIRE scoring and ranking methodology. HUD expects to publish the NSPIRE final rule early this year. The final NSPIRE Scoring notice will be published after the NSPIRE final rule but before HUD's Real Estate Assessment Center (REAC) will commence inspections for scores of record for Multifamily programs, or scores to be included in a Public Housing Assessment System (PHAS) score for public housing. HUD will also publish an NSPIRE Administrative notice after the final rule that provides implementation guidance, including instructions for submitting requests for technical reviews, how to notify residents of inspection results and scores, and how to submit evidence that health and safety deficiencies identified in the NSPIRE inspection have been corrected, among other requirements.

C. HCV and PBV Scoring

Consistent with existing practice and with the NSPIRE proposed rule, NSPIRE will retain a pass/fail indicator for the HCV and PBV programs and use a zero to 100-point scale for HUD programs previously inspected under UPCS. This Scoring notice does not apply to the HCV and PBV programs and does not revise the inspection frequencies established under the applicable program regulations. The individual NSPIRE Standards, which will be finalized in advance of the effective date of the rule for HCV and PBV programs, will include an indication of whether defects in the standard would result in an HCV fail for the unit or property.

[1] ''Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing,'' Final Rule, 63 FR 46565 (Sept. 1, 1998).

[2] 86 FR 2582 (Jan. 13, 2021).

[3] 87 FR 36426 (June 17, 2022).

D. Development of This NSPIRE Scoring Notice

To develop a new scoring methodology, HUD reviewed its current scoring model under UPCS and solicited feedback from the public, including residents, housing industry groups, and housing professionals within and outside of HUD through the NSPIRE proposed rule.[4] HUD also considered feedback on the UPCS inspection and scoring process received over time from industry, residents, advocacy groups, and Congress, and acknowledges concerns about consistency and subjectivity, including the disproportionate impact of certain defects based on item weighting and disproportionate impact of certain non-unit observed defects in smaller properties.

One major issue that many observers have cited over the years is that, in rare cases, a property can pass an inspection while scoring zero points on the Unit Inspectable Area under the UPCS scoring methodology. Properties with substandard unit conditions may appear safe and still have good ''curb appeal'' but have unsafe conditions in the units that persist because the score was not failing, or under 60 points in a 100-point scale. REAC worked with a contractor to review potential scores of properties enrolled in the NSPIRE Demonstration, to compare scoring differences between UPCS and NSPIRE inspections, and to avoid statistical bias in designing a survey to establish a new scoring methodology. HUD also considered additional feedback collected during NSPIRE ''Get Ready Sessions'' held in 14 cities and through other mechanisms, collected through in-person Q&As and QR-code based survey questions. REAC has also continued to host an NSPIRE Demonstration website and email address for questions and comments.[5]

As part of the contractor-designed survey, HUD also conducted a survey of over 60 experts in physical inspections, building codes, and public health and safety. The feedback was requested through a survey designed based on contingent valuation principles.[6] Participants compared the relative risk of defects across severity levels and property locations. The survey findings helped guide the principles of the scoring methodology and establish which defects should most impact the score. Finally, HUD consulted experts in statistics and economics to consider how scores may change between the UPCS standards and the NSPIRE standard. The survey predetermined that certain areas (*e.g.,* units) and severities (*e.g.,* life-threatening) were considered worse than others, and participants responded by quantifying how much.

The survey results helped form many principles used in the NSPIRE scoring and sampling methodology:

- *Defect Severity Level:* Survey respondents largely agreed with the hierarchy of defect severity, that the differentiation at higher severity should be greater than at a lower severity, and that severe health and safety items should have the most impact on score. For example, the differentiation between the two lowest defect hierarchies (Low and Moderate) should be smaller than the differentiation between the two highest defect hierarchies (Severe and Life-Threatening (LT)).
- *Defect Location:* Survey respondents largely agreed that defect location should impact the relative value (importance) of defects in terms of scoring impact and that defects located in the unit should count more than defects located on the property grounds (*e.g.,* site, or ''outside'' as defined in the NSPIRE rule). The survey-helped determine rates of change for both location and severity for defect valuations (in other words, how much the defect penalty increases as the severity increases), which were used as guideposts or benchmarks for reasonability to create the defect impact points.

II. The Proposed NSPIRE Scoring Model

A. Applicability of the NSPIRE Scoring Notice

The NSPIRE Scoring notice will apply to all HUD housing currently inspected by REAC, including public housing and Multifamily Housing programs such as Project-based Rental Assistance, FHA Insured, and sections 202 and 811 as described in the NSPIRE proposed rule at § 5.701.[7]

B. NSPIRE Scoring Format

For properties previously subject to UPCS, HUD intends to continue setting the maximum score to 100 for a property with no deficiencies, and deducting points based on the scoring methodology, with any score under 60 considered a failing score. HUD will also supplement this score with letter grades to make clear to residents, public housing agencies (PHAs), property owners/agents (POAs), and other stakeholders how the numerical score relates to the condition of the property.

C. Scoring Methodology Generally

The NSPIRE scoring methodology converts observed defects into a numerical score. It implements the proposed rule's intent to provide reliable evaluations of housing conditions and to protect residents. In evaluating the prior inspection standards and scoring, HUD identified a disproportionate emphasis around the appearance of items that are otherwise safe and functional and that the standards paid inadequate attention to the health and safety conditions within the built environment. HUD concluded that revised housing standards would need to focus on habitability and the residential use of the structures, and most importantly, the health and safety of residents. To best protect residents, the inspection must prioritize conditions that are most likely to impact residents in the places where they spend the most time, the units. Thus, standards which are categorized as more severe should have a greater impact on a property's score when deficiencies exist in the unit, and a property with observed health and safety defects in its units is more likely to fail an inspection than a comparable property with less severe defects.

HUD therefore intends to score deficiencies based on two factors: severity and location. The categories of severity, as provided in the proposed NSPIRE Standards notice, are Life-Threatening (LT), Severe, Moderate, and Low. As described in the proposed NSPIRE Standards Notice, defect severity levels include the following characteristics:

- *Life-Threatening (LT).* The Life-Threatening category includes deficiencies that, if evident in the home or on the property, present a high risk of death, severe illness, or injury to a resident.
- *Severe.* The Severe category includes deficiencies that, if evident in the home or on the property, present a high risk of permanent disability, or serious injury or illness, to a resident. It also includes deficiencies that would seriously compromise the physical security or safety of a resident or their property.
- *Moderate.* The Moderate category includes deficiencies that, if evident in

[4] Public comments can be reviewed in the rulemaking docket at: *https://www.regulations.gov/docket/HUD-2021-0005.*

[5] See HUD's NSPIRE Demonstration website at: *https://www.hud.gov/program_offices/public_indian_housing/reac/nspire/demonstration.*

[6] Contingent valuation is a survey-based economic technique for the valuation of non-market resources, often as a values-based or revealed preference response.

[7] 86 FR 2582 (Jan. 13, 2021).

the home or on the property, present a moderate risk of an adverse medical event requiring a healthcare visit; could cause temporary harm; or if left untreated, could cause or worsen a chronic condition that may have long-lasting adverse health effects. It also includes deficiencies that would compromise the physical security or safety of a resident or their property.

• *Low.* The Low category includes deficiencies critical to habitability but not presenting a substantive health or safety risk to a resident.

The location categories provided in § 5.703 of the NSPIRE proposed rule are the unit, inside, and outside. Under this proposed NSPIRE scoring methodology, in-unit deficiencies are weighted more heavily, meaning that properties with such deficiencies would be more likely to fail. HUD will weigh these factors using a Defect Impact Weight. Under the Defect Impact Weight methodology, the weight of the deduction for a given deficiency changes depending on both the location and the severity, such that a LT deficiency inside a unit will lead to the largest deduction and a Low deficiency observed outside the property will lead to the smallest deduction. To determine the point deduction of a given deficiency, HUD would determine the location and severity of the deficiency as described in Table 1. Defect Impact Weights by Inspectable Area.

TABLE 1—DEFECT IMPACT WEIGHTS

Defect severity category	Inspectable area *		
	Outside	Inside	Unit
Life-Threatening (most severe)	49.6	54.5	60.0
Severe	12.2	13.4	14.8
Moderate	4.5	5.0	5.5
Low (least severe)	2.0	2.2	2.4

* Defect impact weights are rounded to the tenths place.

In Table 1, the sum of individual defects would be divided by the number of units inspected. If for example only one LT defect in a unit was observed during an inspection sample size of 10 units, and no other defects were observed, the total deduction from the score would be 6 points (60.0 points divided by 10 units). HUD determined each of the values in Table 1 by determining relative severity values for each category. HUD initially considered that the value of an LT defect may be as twice a Severe, a Severe twice Moderate, etc., But based on the survey results, this is not an accurate statement—on average, most respondents agreed that we value the difference between a LT and Severe more than the difference between a Severe and Moderate.

HUD proposes the rates of change by which Defect Impact Weights change depicted in Table 2 below:

TABLE 2—DEFECT SEVERITY VALUES AND RATES OF CHANGE BY DEFECT SEVERITY CATEGORY

Defect severity category	Severity value	Severity rate of change *
Life-Threatening (most severe)	49.6	4.1 × Severe Non-Life Threatening.
Severe	12.2	2.7 × Moderate.
Moderate	4.5	2.3 × Low.
Low (least severe)	2.0	N/A.

* Severity rate of change is rounded to the tenths decimal place.

LT deficiencies will deduct much more than Low deficiencies, consistent with HUD's goal of prioritizing the health and safety of residents.

Defect Impact Weights would also change at constant rates across the three inspectable areas (Outside, Inside, and Unit), but by a smaller amount. From the proposed rule, these areas are:

Outside of HUD housing (or ''outside areas'') refers to the building site, building exterior components, and any building systems located outside of the building or unit. Examples of ''outside'' components may include fencing, retaining walls, grounds, lighting, mailboxes, project signs, parking lots, detached garage or carport, driveways, play areas and equipment, refuse disposal, roads, storm drainage, non-dwelling buildings, and walkways.

Inside means the common areas and building systems that can be generally found within the building interior and are not inside a unit. Examples of ''inside'' common areas may include, basements, interior or attached garages, enclosed carports, restrooms, closets, utility rooms, mechanical rooms, community rooms, day care rooms, halls, corridors, stairs, shared kitchens, laundry rooms, offices, enclosed porches, enclosed patios, enclosed balconies, and trash collection areas.

Unit (or ''dwelling unit'') of HUD housing refers to the interior components of an individual unit. Examples of components included in the interior of a unit may include the balcony, bathroom, call-for-aid (if applicable), carbon monoxide devices, ceiling, doors, electrical systems, enclosed patio, floors, HVAC (where individual units are provided), kitchen, lighting, outlets, smoke detectors, stairs, switches, walls, water heater, and windows.

Inspectable areas would increase point deductions by a factor of 1.1 or 110 percent. For example, if you multiply a Low Defect Impact Weight located in the Outside Inspectable Area (2.0) by 1.1, the result is the Defect Impact Weight for a Low Defect located in the Inside Inspectable Area or 2.2. Similarly, if you multiply a Low Defect Impact Weight located in the Inside Inspectable Area (2.2) by 1.1, the result is the Defect Impact Weight for a Low Defect located in the Unit Inspectable Area or 2.4. This constant rate by which Defect Impact Weights change by inspectable area is depicted in Table 3 below for the Low Defect Severity Category (Note: The same rate of change by inspectable area applies to all Defect Severity Categories):

TABLE 3—DEFECT SEVERITY VALUES AND RATES OF CHANGE BY INSPECTABLE AREA

Defect severity category	Inspectable area		
	Outside	Inside	Unit
Low	2.0	2.2	2.4.
Rate of Change	N/A	1.1 × Outside	1.1 × Inside.

* Area rate of change is rounded to the tenths place.

D. Final Scoring Conversion

Because the number of defects observed will be greater in properties where HUD inspects a larger number of units, the NSPIRE scoring methodology normalizes the total defect deduction value by dividing it by the total number of units inspected. To convert the Defect Deduction Value Per Unit to a 100-point score, the sum of the Defect Impact Weights is divided by the number of units inspected. The formula is represented below:

Total Defect Deduction Value All Areas/ Unit Sample Size = Defect Deduction Value Per Unit

To determine the final property score, the Defect Deduction Value Per Unit is then subtracted from 100:

100 − (Defect Deduction Value Per Unit) = Final Score

Note: Scores cannot go below zero, so if the calculation yields a result lower than 0, the score is set to 0.

E. Fail Thresholds

As provided in the rule and Standards notice, all deficiencies identified through the NSPIRE inspection must be corrected within timeframes established in the rule and the NSPIRE Standard. In addition, under this proposed NSPIRE Scoring methodology, there are two situations in which a property will be considered to have failed inspection:

- *Scores below 60.* Consistent with existing policy and practice, the Property Threshold of Performance is defined as properties that achieve a score of 60 or above. Failure to achieve a score at or above 60 is considered a failing score, and properties that score under 60 are required to perform additional follow up and may be referred for administrative review under current regulations. These policies will be retained in the NSPIRE program.
- *Unit Point Deduction 30 or above.* Consistent with HUD's goal of maximizing the health and safety of a unit, HUD has determined that scores where deductions are disproportionately from Unit deficiencies should be considered failures even if, for example, the rest of the property is in pristine condition. Therefore, regardless of the overall property score, if 30 points or more were deducted due to Unit deficiencies, HUD would consider the property to have failed the inspection and would deem the result of the inspection to be a score of 59.

III. Examples

Example 1: A Property Where HUD Inspects 10 Units as Part of Its Inspection Sample

The following example demonstrates a 10-unit inspection in which the property passes the inspection with a score of 80. In this example, the following defects and the corresponding Defect Impact Weight categories were recorded by the inspector:

Table 4: Example #1—Defects Observed During an Inspection of 10 Sampled Units

An Inspector conducted an inspection of Property L and observed the following deficiencies in 10 units inspected under the NSPIRE Standard:

Defect severity category	Outside	Inside	Units
Life-Threatening	0	0	2
Severe	0	2	1
Moderate	0	3	0
Low	1	10	0
Total by Inspectable Area	1	15	3

Under the NSPIRE scoring methodology, each of these defects would be multiplied by the corresponding Defect Impact Weights to establish the total property defect deduction value. The total property defect deduction value is calculated as follows in Table 5:

TABLE 5—EXAMPLE #1—TOTAL PROPERTY DEFECT DEDUCTION VALUE CALCULATION

Defect severity category	Outside	Inside	Unit G	Unit B	All other units
Life-Threatening	0 × 49.6 = 0	0 × 54.5 = 0	1 × 60 = 60	1 × 60 = 60	0 × 60 = 0
Severe	0 × 12.2 = 0	2 × 13.4 = 26.8	0 × 14.8 = 0	1 × 14.8 = 14.8	0 × 14.8 = 0
Moderate	0 × 4.5 = 0	3 × 5 = 15.0	0 × 5.5 = 0	0 × 5.5 = 0	0 × 5.5 = 0
Low	1 × 2.0 = 2.0	10 × 2.2 = 22.0	0 × 2.4 = 0	0 × 2.4 = 0	0 × 2.4 = 0
Sum of Defect Deduction Value	2.0	63.8	60.0	74.8	0.0
Inspectable Area Defect Deduction Value	2.0	63.8	134.8		
Total Property Defect Deduction Value	2.0 + 63.8 + 134.8 = 200.6				

The defect deduction value per unit would be the sum of the Total Property Defect Deduction Value All Areas of 200.6 divided by the unit sample size of 10 for a value of 20 (values and calculations in parentheses):

Total Defect Deduction Value All Areas (200.6)/Unit Sample Size (10) = Defect Deduction Value Per Unit (20.06)

The property's preliminary score on the 100-point scale would therefore be calculated as follows:

100 − Defect Deduction Value Per Unit (20.06) = Preliminary Score (79.94)

This score would then be rounded up to 80.

Example #2—The Unit Threshold of Acceptability Factor

The following is another example which demonstrates a 10-unit inspection of property T that would receive a score above 60 but would fail the NSPIRE inspection based on Unit Point Deduction. In this example, the following defects and the corresponding Defect Impact Weight categories were recorded by the inspector:

TABLE 6—EXAMPLE #2—TOTAL INSPECTABLE AREA DEFECT DEDUCTION VALUES

Defect severity category	Outside	Inside	Units
Life-Threatening	0 × 49.6 = 0	0 × 54.5 = 0	4 × 60 = 240
Severe	0 × 12.2 = 0	2 × 13.4 = 26.8	4 × 14.8 = 59.2
Moderate	0 × 4.5 = 0	3 × 5 = 15	2 × 5.5 = 11
Low	1 × 2 = 2	10 × 2.2 = 22	0 × 2.4 = 0
Sum of Defect Deduction Values (or Inspectable Area Defect Deduction Values)	2.0	63.8	310.2
Total Property Defect Deduction Value	2.0 + 63.8 + 310.2 = 376.0		

Using the Unit Inspectable Area Defect Deduction Value of 310.2, the Unit Threshold of Performance would be calculated as follows (values and calculations in parentheses):

Total Unit Inspectable Area Defect Deduction (310.2)/Sample Size (10) = Final Unit Defect Deduction (31.02)

Because the Final Unit Defect Deduction is over 30, the property would fail the inspection, even if the overall final score would be greater than 60.

In this example, defects were observed in the Outside and Inside inspectable areas also, resulting in a Total Defect Deduction Value for All Areas = 376.0 which would be adjusted by the sample size of 10 units as follows (values and calculations in parentheses):

Total Defect Deduction Value All Areas (376.0)/Unit Sample Size (10) = Defect Deduction Value Per Unit (37.6)

The property's score factoring in the observed defects in all inspectable areas would be calculated as follows:

100 − Total Defect Deduction Value All Areas Per Unit (37.6) = Final Score (62.4)

In this example, the property's overall inspection results would be considered passing under UPCS scoring as the final score would be rounded down to 62, but under NSPIRE, the Unit Defect Deduction is 31.0 (30 points or more were deducted due to Unit deficiencies) and thus results in an automatic adjustment to a failing score of 59.

The table below provides a summary of the Property and Unit Thresholds of Performance and details the circumstances in which a property passes an inspection based on these thresholds.

TABLE 7—SUMMARY OF PROPERTY AND UNIT THRESHOLDS OF PERFORMANCE AND INSPECTION OUTCOMES

Inspection results	Property L	Property T
Property Score >= 60.	Yes	Yes.
Final Unit Defect Deduction <= 30.	Yes	No.
Overall Inspection Result.	PASS	FAIL.

IV. Administrative Details

A. Rounding

Calculated scores will be rounded to the nearest whole number with one exception. For properties that score between 59 and 60, the score will be rounded down to 59. This reflects HUD's concern that properties must surpass these scoring thresholds to be considered at or above those scores which may dictate HUD's administrative, oversight, monitoring and enforcement approach for poorly scoring properties.

B. Inspection Report

In the inspection report provided to property ownership and/or management, HUD will provide the overall score and indicate the numerical results for each of the two types of inspection evaluations that determine whether the property passes or fails the inspection:

- *Property Threshold of Performance:* Property Score on the zero to 100-point scale
- *Unit Threshold of Performance Factor:* Unit Inspectable Area Defect Deduction Value Per Unit

C. HUD's Use of NSPIRE Inspection Scores

HUD uses property scores to support monitoring and enforcement of HUD's physical condition requirements. Property scores give HUD, the owner or PHA, and any other relevant parties an impression of the overall physical condition of the property. A high or low score does not change that a participant is required to repair all deficiencies identified in the inspection.

HUD intends to continue using the zero to 100-point scale for purposes including (but not limited to):

- *Frequency of Inspections:* Properties that score higher are inspected less frequently;
- *Enforcement:* Properties that fail or score below certain thresholds may be subject to HUD enforcement actions, including referral to HUD's Departmental Enforcement Center (DEC);
- *Public Housing Assessment System (PHAS) Designations:* Average weighted inspection scores comprise forty (40) points of a public housing agency's PHAS designation;
- *Participant Evaluation:* Inspection scores are considered when determining whether a potential or existing HUD Multifamily business stakeholder may expand its involvement in HUD housing; and
- *Risk Assessment:* HUD's Offices of Multifamily Housing and Public

Housing use inspection scores and pass/fail designations to assess the risk of owners/agents and public housing agencies.

D. Non-Scored Defects and New Affirmative Requirements

In recognition of its long-standing practice for not scoring smoke detector defects under the UPCS scoring methodology, HUD will not score smoke detector defects, but will continue to use an asterisk (*) to denote identified smoke detector defects. The asterisk will be appended to the numerical property score, and it is critical to note that these defects are classified as LT defects and must be corrected within 24-hours even though these defects are not scored. HUD will also follow this policy for carbon monoxide devices. While not scored, these items are considered LT and must be remedied within the timelines established by HUD.

Similarly, HUD recognizes that the NSPIRE Standards include new affirmative requirements defined generally as property attributes or requirements that must be met. The lack of these property attributes, which may include the quantity and location of these items (*e.g.,* GFCI outlets) would constitute a defect and result in a deduction from the property's inspection score. HUD understands that it may take properties' ownership and management some time to comply with these new standards and as a result will not score new affirmative requirements, defined as those standards that were expressly not in the UPCS or in any way covered by those standards, in the first 12 months of NSPIRE inspections for the program.[8] The list of new affirmative requirements will be included in the final NSPIRE rule. HUD currently expects that this list will include GFCI protected outlets within 6 feet of a water source, guardrails for elevated walkways, a permanently installed heating source for certain climate zones, and a permanently mounted light fixture in the kitchen and each bathroom.

During this initial 12-month period, HUD will provide a score of record that will be used for administrative purposes including oversight and enforcement and a projected score if those new affirmative requirements were scored. Both scores will be provided on the inspection report received by property ownership and/or management.

E. Scoring Designations

HUD will supplement the property's zero to 100-point score with the following designations that provide property ownership and/or management, residents, and other stakeholders with information important to understanding the overall inspection results. These designations include:

- *Smoke Detectors:* An asterisk next to the property's zero to 100-point score will indicate whether an inspector observed a smoke detector defect during an inspection.
- *Carbon Monoxide Detectors:* An alternate symbol designation, similar to an asterisk, will also be included next to the property's zero to 100-point score to indicate whether an inspector observed a carbon monoxide detector defect during an inspection.
- *Presence of Certain Defect Severity Levels:* HUD previously provided a letter designation (*e.g.,* a, b, c) to indicate the presence of exigent health and safety defects; this will no longer be used under NSPIRE. HUD will instead provide a summary table of the defect observations by Defect Severity Category, *e.g.,* Life-threatening, Severe, Moderate, Low. At the conclusion of the inspection, the PHA or Owner will receive a list of all health and safety items that must be corrected within 24 hours of the inspection.
- *New Affirmative Requirements:* In at least the first 12 months after the effective date of the final NSPIRE Rule, a designation to be determined will also be included as part of the property's inspection results to indicate new affirmative requirements that were not scored. Standards that may need more calibration through field testing, such as a minimum temperature standard, may not be scored for more than a year. In at least the initial year of NSPIRE, HUD will also provide two scores; one that shows the potential score if all new affirmative requirements were scored, and the official score for that inspection.
- *Letter Grades:* HUD will assign a letter grade to each property inspection score. This will assist HUD, property ownership and/or management, residents, and the public to better understand the condition of the property and to guide administrative activities such as oversight, risk management, and enforcement. The letter grades will be attributed to the zero to 100-point property score based on the following scale in Table 8 below:

TABLE 8—LETTER GRADES BY DISTRIBUTION OF THE ZERO TO 100-POINT INSPECTION SCORE

Property score	Letter grade	Meaning
>= 90 points	A	The property is in good physical condition with the fewest number of concerning defects, which are also easily addressed.
>= 80 points, <90 points	B	The property is in good physical condition with comparatively more concerning defects, but these defects are also easily addressed.
>= 70 points, <80 points	C	The property is in an acceptable physical condition with a greater number of concerning defects. The property should be closely monitored to see if these issues are correctable or present larger concerns about resident health and safety and overall asset condition.
>= 60 points, <70 points	D	The property is in a very challenged and near failing physical condition, with a high prevalence of concerning health and safety defects that may not be easily addressed and/or reflect possible concerns about maintenance or overall asset condition. The property should be closely monitored to avoid it becoming a failed property.
>30 points, <60 points	E	The property is in a failing physical condition, with a high prevalence of concerning health and safety defects that clearly reflect larger concerns with the maintenance and short-term condition of the asset. The property should be monitored regularly *and may be reinspected more than annually* to protect resident health and safety. If the property receives two successive scores in this range, HUD will consider administrative actions to protect residents as described in the final NSPIRE rule.

[8] The NSPIRE final rule will have different effective and compliance dates for different programs. The first 12 months for a given program will be based on the date inspections commence for that program.

TABLE 8—LETTER GRADES BY DISTRIBUTION OF THE ZERO TO 100-POINT INSPECTION SCORE—Continued

Property score	Letter grade	Meaning
<= 30 points	F	The property is in a failing physical condition, with an extremely high prevalence of concerning health and safety defects that clearly reflect larger concerns with the maintenance and short-term condition of the asset. The property should be monitored *and inspected regularly* to protect resident health and safety and, if necessary, actions should be taken to protect residents including, but not limited to relocation and/or changes in property ownership and/or management. These properties will be automatically referred to the DEC.

Each of the above designations will be clearly summarized on the draft inspection report provided to property ownership and/or management shortly after the conclusion of an inspection. Regulations covering HUD's expected actions for scores of 30 or less, or two successive scores under 60, will be in the final NSPIRE rule.

F. Defect Remediation and Pass/Fail Status

HUD will evaluate the extent to which property ownership and/or management complies with its requirements to submit documentation indicating certain more severe defects have been remediated or are at least in the process of being remediated (*e.g.,* the property implemented an integrated pest management plan to address infestation). HUD will use its administrative authority in its regulations to compel compliance. More information will be provided in the NSPIRE Administrative notice.

G. Draft and Final Inspection Reports, Preliminary and Final Scores

REAC will issue a draft inspection report with a preliminary score and a recordation of all defects including those that must be addressed within certain timeframes. HUD will issue a final inspection report with a final score and a recordation of all defects following the appeals process specified in the NSPIRE Administrative Procedures Notice. In the interest of protecting residents, HUD may take administrative actions based on the draft inspection report and preliminary inspection score. Both the draft and final reports will also provide summaries of the inspection results.

H. Unit Sampling

HUD's inspection program and scoring methodology under NSPIRE relies on inspecting a statistically significant sample of units to achieve a 90 percent confidence level with a 6 percent margin of error for its inspections. HUD employed the same confidence level, and a similar margin of error, but capped the number of units inspected at 27 units under UPCS. Under the NSPIRE scoring and sampling methodology, HUD intends to increase the maximum number of units to 32 units. This will help achieve consistency in inspection results across all sizes of properties.

Under the UPCS scoring and sampling methodology, many inspections required that every residence building be inspected regardless of whether or not any unit within that building was subject to inspection. HUD is eliminating that requirement. Under the NSPIRE scoring and sampling methodology, building-level sampling will be driven by units. For any building that contains a unit in the inspection sample, the building will also be inspected. Under the NSPIRE scoring and sampling methodology, there are also no point values calculated and assigned to specific buildings or units, which further eliminates the need to inspect all residence buildings.

Achieving a uniform confidence level is critical to the overall accuracy of HUD inspections and benefits residents and property ownership and/or management by reducing the number of re-inspections due to inspections that do not meet HUD's standards for accuracy. Under HUD's regulations (and as will be affirmed in the final NSPIRE rule) and HUD's contracts with owners and operators of HUD-assisted and insured housing, units should meet HUD's physical condition standards 365 days a year.

The results of the NSPIRE sampling methodology are provided in Table 9. It was developed to consider the desired confidence interval (90 percent), margin of error (6 percent), and expected defect population proportion. HUD calculated the sample size for every possible population of units by solving for the lowest possible minimum sample size in the following equation: [9]

$$\varepsilon < z * \frac{\sqrt{\frac{(N-s)*p*(1-p)}{N*(s-1)}}}{(1-p)}$$

[9] Cochran, William G., Sampling Techniques, New York: John Wiley & Sons, Inc., 1977.

Where:

- ε = margin of error
  - In this case, 6 percent
- z = z-score corresponding to confidence interval
  - In this case, ~1.65 corresponds to 90 percent two-sided confidence interval
- p = expected defect population proportion
  - In this case, HUD used a proportion of 3.97 percent [10]
- N = unit population
- s = minimum sample size

[Note: For comparison purposes, the UPCS sampling methodology is also provided in Table 9, although the unit grouping does not fully align.]

V. Inspection Sample Sizes

TABLE 9—NUMBER OF UNITS SAMPLED UNDER NSPIRE SCORING AND SAMPLING METHODOLOGY BASED ON PROPERTY SIZE

Units in property	UPCS sample	NSPIRE sample
1	1	1
2	2	2
3	3	3
4	4	4
5	5	5
6	5	6
7	6	6
8	7	7
9	7	8
10	8	8
11–12	8	9
13–14	9	10
15–16	10	11
17–18	11	12
19–21	12	13
22–24	13	14
25–27	14	15
28–30	14	16
31–35	15	17
36–39	16	18
40–45	17	19
46–51	18	20
52–59	18	21
60–67	19	22
68–78	20	23
79–92	21	24
93–110	21–22	25
111–120	22–23	26
121–166	23–24	27
167–214	24–25	28
215–295	25	29
296–455	25–26	30
456–920	26	31
921+	27	32

VI. Changes From UPCS

HUD welcomes and appreciates all feedback on the scoring methodology detailed in this request for comments. HUD also seeks specific input on the following items that it considers will emphasize health and safety more clearly compared to the UPCS scoring methodology.

A. Removing Severity and Criticality Levels

HUD's UPCS scoring methodology included two factors for how a specific defect would impact a property's score. The first factor of defect severity evaluated the relative magnitude of the defect. For example, a small scratch or indentation in a wall would mostly likely be a Level 1 defect (on a 1–3 scale). In contrast, a sizeable hole in a wall that likely presented structural issues would be a Level 3 defect.

The second factor evaluating criticality (on a 1–5 scale) multiplied the value associated with the severity of the defect depending on how important the actual defect was to the residents' safety and quality of life. For example, an exigent health and safety defect such as a blocked egress would apply the maximum multiplier to the defect severity value. In this example, a blocked egress is both a Level 3 defect and a Criticality 5 defect, which would result in the maximum deduction of points.

NSPIRE would replace both factors with a scoring methodology which deducts a certain point value by type and severity of defect depending on where that defect is observed during the inspection. For example: identifying a Severe defect would result in deducting more points from the overall inspection score if the defect were identified inside the unit than on the property's grounds, or outside.

B. Reducing the Number of Inspectable Areas From Five to Three

HUD is reducing the number of inspectable areas from five to three. Under UPCS there were five inspectable areas: Units, Common Areas, Building Systems, Building Exterior, and Site. HUD undertook this change to better clarify where certain defects can be observed and to eliminate some unique situations under UPCS where an inspector could have more leeway in designating the inspectable area of a certain defect, which could greatly impact and potentially skew scoring. For example, a certain defect could be considered to be within the Building Exterior inspectable area or the Unit Inspectable Area, which could result in different scoring depending on the inspectable area where the inspector decided to record a defect.

In the NSPIRE proposed rule at § 5.703, HUD proposed three inspectable areas: Units, Inside, and Outside. The NSPIRE Standards notice and attached standards provide additional clarity about in which inspectable area certain defects should be observed and prescribe that those defects can only be recorded in that area.

Table 10 below roughly illustrates how the inspectable areas under UPCS translate to NSPIRE; however, it is critical to understand that some inspectable items that may have been in a certain inspectable area under UPCS may not necessarily fall into the category represented in the table below due to how NSPIRE categorizes the location of these defects.

TABLE 10—COMPARISON AND ROUGH TRANSLATION OF INSPECTABLE AREAS UNDER UPCS AS COMPARED TO NSPIRE (MOST COMMON DISTRIBUTION OF POINTS BY INSPECTABLE AREA UNDER UPCS INCLUDED IN PARENTHESES, WHERE NSPIRE DOES NOT DISTRIBUTE THE 100 POINTS ACROSS INSPECTABLE AREAS)

UPCS inspectable area	NSPIRE inspectable area	
Unit (35 points)	Unit.	100 points.
Common Areas (15 points) Building Systems (20 points)	Inside.	

[10] Based on an analysis of historical UPCS data, this is the estimate of the percentage of units with more than 3 unique NSPIRE defects.

TABLE 10—COMPARISON AND ROUGH TRANSLATION OF INSPECTABLE AREAS UNDER UPCS AS COMPARED TO NSPIRE (MOST COMMON DISTRIBUTION OF POINTS BY INSPECTABLE AREA UNDER UPCS INCLUDED IN PARENTHESES, WHERE NSPIRE DOES NOT DISTRIBUTE THE 100 POINTS ACROSS INSPECTABLE AREAS)—Continued

UPCS inspectable area		
Building Exterior (15 points) ..... Site (15 points)	Outside.	

C. Removing Item and Area-Based Limits and Scoring Weight Distribution Along With Point Caps

Under the UPCS scoring methodology, the sampling methodology created a maximum number of points at multiple levels, including (but not limited to):

• *Inspectable Area.* As depicted in Table 10 above, under UPCS each inspectable area had a total point value. [Note: The total point value could shift slightly depending on the presence of certain inspectable items. For example, the Unit Inspectable Area could account for as many as 40 points.] Under NSPIRE, the 100-point score distribution is not divided among inspectable areas meaning an inspection could theoretically result in a zero (0) point score solely based on observations in units.

• *Inspectable Item.* Within each inspectable area, the UPCS scoring methodology would identify inspectable items (*e.g.,* if a kitchen has 10 inspectable items such as a door, each of the ten items would have an item weight or account for 10 percent of the score in that location) that would result in a point cap for those items. Under NSPIRE, there are no inspectable items. Defects observed are assigned a Defect Impact Weight as described in Section IV of this Notice and the score is reduced accordingly by the defects observed.

• *Buildings.* Under UPCS, the number of buildings sampled would impact the total points available and the maximum number of points that could be lost under Building Systems and Building Exterior, meaning if 3 buildings were sampled, each building essentially contributed one-third of the points for the two building inspectable areas. Under NSPIRE there is no such point value assigned to sampled buildings.

• *Units.* Under UPCS, and like buildings, the number of units sampled would result in a maximum number of points that could be lost per unit. This meant that if 10 units were sampled, each unit contributed approximately 3.5 points towards the total score and that would also be the total amount of points that could be lost in a specific unit. Under NSPIRE, there is no such point value assigned to sampled units.

• *Point Caps.* Under UPCS, HUD established a point loss cap for single deficiencies by sub-area (*e.g.* building exterior, site, units) at set deductions, for example, no more than 7.5 points could be deducted for the site for that type of deficiency. Under NSPIRE, defect-specific point caps based on sub-areas are eliminated. Additionally, under UPCS, within a single ''sub-area'' (for instance, within one unit), even if there were multiple instances of the same deficiency type, there would only be one deduction for that deficiency type. For example, if multiple deficiencies for broken windows were recorded in one unit, only the most severe deficiency observed would be deducted for that unit. Under NSPIRE, HUD is proposing to allow for deductions multiple times for the same deficiency if that deficiency is identified in multiple distinct inspectable items. Deficiencies and resulting score deductions will depend on the specific NSPIRE standard and inspection protocol, which includes unique deficiency criteria that limit the number of observations to prevent excessive observations of deficiencies. For example, in the Pest Infestation standard, the number of rooms in a unit where evidence of infestation is observed does not matter; the deficiency will be cited and scored as a pest infestation in the unit. HUD seeks comment specifically on this change.

• *Normalization.* Under UPCS, almost all aspects of the scoring were normalized based on the number of buildings, units, or inspectable items. This created point caps for each of these areas as described above, but also adversely impacted smaller properties which could lose a much larger proportional share of points on Building Systems and Building Exterior even if a single defect was observed (*e.g.,* if it was a single building property, the point value of the defects in the Building Systems and Building Exterior Areas would be divided by one).

Consistent with the principles of the Economic Growth Act (Pub. L. 115–74) and creating less burden on smaller and especially rural properties, NSPIRE limits normalization to the number of units only, with consideration of the sample size. This reflects the recognition that defects are likely to be observed more often in larger properties with more units; but certain defects regardless of where observed (*e.g.,* on the property grounds) should not disproportionately impact a smaller property's score. Where there are fewer buildings and units assessed, deductions for site-based conditions under UPCS (*e.g.,* overgrown vegetation, cracked sidewalks that are not a tripping hazard, erosion) were disproportionally weighted. This unit-only normalization also reflects that the NSPIRE scoring and sampling methodology focus on the condition of units more so than the condition of other inspectable areas such as Inside or Outside of the property.

D. Additional Considerations Before Finalizing NSPIRE Scoring

As described in the Background section, HUD used the results of the NSPIRE Demonstration to evaluate its Standards and Scoring methodology. HUD will continue to test this scoring methodology in NSPIRE Demonstration inspections and compare score results to the properties' last UPCS inspection. The results of this exercise will be considered in addition to public comment on this notice. The results will be discussed in the final NSPIRE Scoring notice.

VII. NSPIRE and the Public Housing Assessment System (PHAS)

For Public Housing properties subject to the Public Housing Assessment System, HUD will use the new NSPIRE scoring methodology and associated property inspection scores to calculate the PHAS Physical Condition Indicator component of PHAS once a PHA's entire portfolio has been inspected under NSPIRE. This indicator, also known as the Physical Assessment Subsystem (PASS) indicator, comprises 40 points of the 100-point PHAS score. HUD will employ the same unit-weighted average score methodology under 24 CFR 902.22 to calculate the PASS indicator score for PHAs subject to PHAS in calendar year 2023 using

NSPIRE property inspection scores. Until all inspections are completed under NSPIRE, a PHA's physical condition indicator will continue to be based on the most recent UPCS scoring and unit-weighted average. HUD will provide additional guidance to PHAs that are currently under a Recovery Agreement that include goals to improve the physical condition in a separate notice.

Dominique Blom,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 2023–06339 Filed 3–27–23; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2023–0204]

RIN 1625–AA00

Safety Zone; Fireworks Display, Umatilla Marina, Umatilla, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish a temporary safety zone for certain waters of Umatilla Marina. This action is necessary to provide for the safety of life on these navigable waters near Umatilla, OR, during a fireworks display on June 24, 2023. This proposed rulemaking would prohibit persons and vessels from being in the safety zone unless authorized by the Captain of the Port Columbia River or a designated representative. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before April 27, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0204 using the Federal Decision-Making Portal at *https://www.regulations.gov*. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email LT Carlie Gilligan, Waterways Management Division, Marine Safety Unit Portland, Coast Guard; telephone 503–240–9319, email *D13-SMB-MSUPortlandWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

On February 2, 2023, Western Display Fireworks, LTD notified the Coast Guard that it will be conducting a fireworks display from 10 to 10:30 p.m. on June 24, 2023. The fireworks are to be launched from a site on land in the Umatilla Marina, OR. Hazards from firework displays include accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris. The Captain of the Port Columbia River (COTP) has determined that potential hazards associated with the fireworks would be a safety concern for anyone within a 400-foot radius of the launch site before, during, or after the fireworks display.

The purpose of this rulemaking is to ensure the safety of vessels and the navigable waters within a 400-foot radius of the fireworks discharge site before, during, and after the scheduled event. The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231).

III. Discussion of Proposed Rule

The COTP is proposing to establish a safety zone from 9:30 to 11 p.m. on June 24, 2023. The safety zone would cover all navigable waters within 400 feet of the launch site located at approximately 45°55′37.50″ N 119°19′47.60″ W in the Umatilla Marina, Oregon. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 10 to 10:30 p.m. fireworks display. No vessel or person would be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. The safety zone created by this proposed rule is designed to minimize its impact on navigable waters. The safety zone will impact approximately a 500-foot area of Umatilla Marina and is not anticipated to exceed 1.5 hours in duration. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Moreover, under certain conditions vessels may still transit through the safety zone when permitted by the COTP. The Coast Guard would issue a Notice to Mariners about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a safety zone lasting 1.5 hours that would prohibit entry within 400 feet of a fireworks launch site. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

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

Submitting comments. We encourage you to submit comments through the Federal Decision-Making Portal at *https://www.regulations.gov*. To do so, go to *https://www.regulations.gov,* type USCG–2023–0204 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. If you cannot submit your material by using *https://www.regulations.gov,* call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule for alternate instructions.

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

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

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

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0204 to read as follows:

§ 165.T13–0204 Safety Zone; Fireworks Display, Umatilla Marina, Umatilla, OR.

(a) *Location.* The following area is a safety zone: All navigable waters within 400 feet of a fireworks launch site in Umatilla, OR. The fireworks launch site will be at the approximate point of 45°55′37.50″ N 119°19′47.60″ W.

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

Designated representative means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel and a Federal, State, and

local officer designated by or assisting the Captain of the Port Columbia River (COTP) in the enforcement of the safety zone.

Participant means all persons and vessels registered with the event sponsor as a participant in the fireworks display.

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

(2) To seek permission to enter, contact the COTP or the COTP's representative by calling (503) 209–2468 or the Sector Columbia River Command Center on Channel 16 VHF–FM. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) The COTP will provide notice of the regulated area through advanced notice via broadcast notice to mariners and by on-scene designated representatives.

(d) *Enforcement period.* This section will be enforced from 9:30 to 11 p.m. on June 24, 2023. It will be subject to enforcement this entire period unless the COTP determines it is no longer needed, in which case the Coast Guard will inform mariners via Notice to Mariners.

Dated: March 20, 2023.

M. Scott Jackson,

Captain, U.S. Coast Guard, Captain of the Port, Sector Columbia River.

[FR Doc. 2023–06407 Filed 3–27–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2023–OSERS–0001]

Proposed Priority and Requirements—Technical Assistance on State Data Collection—National Technical Assistance Center To Improve State Capacity To Collect, Report, Analyze, and Use Accurate IDEA Data To Address Significant Disproportionality

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

ACTION: Proposed priority and requirements.

SUMMARY: The Department of Education (Department) proposes a priority and requirements for a National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Data to Address Significant Disproportionality (Center) under the Technical Assistance on State Data Collection program, Assistance Listing Number 84.373E. The Department may use this priority and these requirements for competitions in fiscal year (FY) 2023 and later years. We take this action to focus attention on an identified national need to provide technical assistance (TA) to improve the capacity of States to meet the data collection requirements under Part B and Part C of the Individuals with Disabilities Education Act (IDEA). This Center would support States in collecting, reporting, and determining how to best analyze and use their data to address issues of significant disproportionality and would customize its TA to meet each State's specific needs.

DATES: We must receive your comments on or before June 12, 2023.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email or those submitted after the comment period. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under ''Help.''
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about the proposed priority and requirements, address them to Richelle Davis, U.S. Department of Education, 400 Maryland Avenue SW, Room 5076, Potomac Center Plaza, Washington, DC 20202–5076.

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available. Commenters should not include in their comments any information that identifies other individuals or that permits readers to identify other individuals.

FOR FURTHER INFORMATION CONTACT: Richelle Davis, U.S. Department of Education, 400 Maryland Avenue SW, Room 5076, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–7401. Email: *Richelle.Davis@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed priority and requirements. To ensure that your comments have maximum effect in developing the final priority and requirements, we urge you to clearly identify the specific section of the proposed priority or requirement that each comment addresses.

We are particularly interested in comments about whether the proposed priority or any of the proposed requirements would be challenging for new applicants to meet and, if so, how the proposed priority or requirements could be revised to address potential challenges.[1]

Directed Questions:

1. What are the common challenges or barriers experienced by State educational agencies (SEAs) and local educational agencies (LEAs) when using IDEA data to address significant disproportionality and promote equity, and how could this investment help address those challenges and barriers?
2. What supports do SEAs require in providing for the required review of policies, practices, and procedures in LEAs identified as having significant disproportionality?
3. What supports do SEAs require to assist, as needed, LEAs identified as having significant disproportionality in conducting their root cause analyses to identify the potential causes and contributing factors of the significant disproportionality?
4. What supports do SEAs require to conduct their analysis of significant disproportionality at the State level?
5. What supports do SEAs require to assist, as needed, LEAs identified as having significant disproportionality in expending IDEA funds on comprehensive coordinated early intervening services (CCEIS) to address the causes and contributing factors of the significant disproportionality?

We invite you to assist us in complying with the specific

[1] For additional information on significant disproportionality and associated requirements related to the identification of significant disproportionality, including information on the required review of policies, practices, and procedures, please see Significant Disproportionality Essential Questions and Answers at *https://sites.ed.gov/idea/files/significant-disproportionality-qa-03-08-17.pdf.*

requirements of Executive Orders 12866 and 13563 to reduce any regulatory burden that might result from the proposed priority and requirements. Please let us know how we could further reduce potential costs or increase potential benefits, while preserving effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the proposed priority and requirements by accessing *Regulations.gov.* You may also inspect the comments in person in room 5076, 550 12th Street SW, Potomac Center Plaza, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priority and requirements. If you want to schedule an appointment for this type of accommodation or auxiliary aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Purpose of Program: The purpose of the Technical Assistance on State Data Collection program is to improve the capacity of States to meet IDEA data collection and reporting requirements. Funding for the program is authorized under section 611(c)(1) of IDEA, which gives the Secretary authority to reserve not more than ½ of 1 percent of the amounts appropriated under Part B for each fiscal year to provide TA activities, where needed, to improve the capacity of States to meet the data collection and reporting requirements under Parts B and C of IDEA. The maximum amount the Secretary may reserve under this set-aside for any fiscal year is $25,000,000, cumulatively adjusted by the rate of inflation. Section 616(i) of IDEA requires the Secretary to review the data collection and analysis capacity of States to ensure that data and information determined necessary for implementation of section 616 of IDEA are collected, analyzed, and accurately reported to the Secretary. It also requires the Secretary to provide TA, where needed, to improve the capacity of States to meet the data collection requirements, which include the data collection and reporting requirements in sections 616 and 618 of IDEA. In addition, the Consolidated Appropriations Act, 2023, Public Law 117–328, gives the Secretary authority to use funds reserved under section 611(c) of IDEA to ''administer and carry out other services and activities to improve data collection, coordination, quality, and use under Parts B and C of the IDEA.'' Consolidated Appropriations Act, 2023, Public Law 117–328, Div. H, Title III, 136 Stat. 4459, 4891 (2022).

Program Authority: 20 U.S.C. 1411(c), 1416(i), 1418(c), 1418(d), 1442; Consolidated Appropriations Act, 2023, Public Law 117–328, Div. H, Title III, 136 Stat. 4459, 4891 (2022).

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Program Regulations: 34 CFR 300.646–300.647, 300.702; as well as IDEA Part B State Performance Plan/Annual Performance Report (SPP/APR) Indicators 9 and 10 regarding disproportionate representation resulting from inappropriate identification, under 20 U.S.C. 1416(a)(3)(C) and 34 CFR 300.600(d)(3); and IDEA Part B SPP/APR Indicator 4 regarding significant discrepancy in suspensions and expulsion rates, under 20 U.S.C. 1416(a)(3)(A) and 1412(a)(22) and 34 CFR 300.600(d)(1) and 300.170.

Proposed Priority:

This notice contains one proposed priority.

National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Data to Address Significant Disproportionality.

Background:

Under sections 616 and 618 of IDEA, States are required to collect, report, analyze, and use data regarding students with disabilities. These activities are intended support improved educational results and functional outcomes for all children with disabilities, and to ensure that States meet IDEA requirements, with an emphasis on those requirements most closely related to improving educational results for children with disabilities. Additionally, IDEA section 618(d) requires States and the Department of the Interior to collect and examine data to determine if significant disproportionality on the basis of race and ethnicity is occurring in the State and the LEAs of the State with respect to (1) identification of children as children with disabilities, including by disability category; (2) placement of children with disabilities by educational settings; and (3) the incidence, duration, and type of disciplinary actions, including suspensions and expulsions. There are 98 separate factors for determining whether significant disproportionality exists in an LEA (*i.e.,* 14 categories of analysis with respect to identification, placement, and disciplinary removal, cross-tabulated with seven racial and ethnic groups).

In December 2016, the Department published a Notice of Final Rule [2] (NFR) on significant disproportionality in special education to further clarify the statute. The NFR established a standard methodology that SEAs must use to determine whether significant disproportionality on the basis of race and ethnicity is occurring in the State and its LEAs. The NFR also clarified the requirements for the review of policies, practices, and procedures when significant disproportionality is identified, and it requires LEAs to identify the factors contributing to the significant disproportionality and address them, including by reserving 15 percent of their IDEA Part B funds for CCEIS. SEAs were required to begin implementing the regulation by reporting on significant disproportionality beginning in 2020 for the 2018–2019 school year.[3]

Since that time, the IDEA section 618 data reported by SEAs in the Maintenance of Effort Reduction and Coordinating Early Intervening Services collection (which include the number of LEAs required to reserve 15 percent of their IDEA Part B funds due to being identified as having significant disproportionality) [4] reflected the following: For school year (SY) 2018–2019 (reported by SEAs in May 2020), SEAs reported that 417 LEAs, across 31 States, were required to reserve 15 percent of their IDEA Part B funds due to significant disproportionality. Over the following two school years, the IDEA section 618 data submitted by SEAs reflected an increase in both the number of LEAs identified with significant disproportionality and the overall number of States that identified

[2] The full text of the NFR can be found at *https://www.regulations.gov/document/ED-2015-OSERS-0132-0318.* Please also see Significant Disproportionality Essential Questions and Answers at *https://sites.ed.gov/idea/files/significant-disproportionality-qa-03-08-17.pdf* for additional information on significant disproportionality requirements.

[3] On July 3, 2018, the Department postponed the date for States to comply with these regulations until July 1, 2020. On March 7, 2019, the United States District Court for the District of Columbia vacated the Department's delay. *Council of Parent Attorneys and Advocates, Inc.* v. *DeVos,* 365 F. Supp. 3d 28 (D.D.C. 2019). The regulations took effect immediately after that judicial decision.

[4] An LEA that is identified as having significant disproportionality must reserve 15 percent of its IDEA, Part B funds to provide CCEIS. Please see questions C–3–1 to C–3–10 in Significant Disproportionality Essential Questions and Answers at *https://sites.ed.gov/idea/files/significant-disproportionality-qa-03-08-17.pdf* for more information on CCEIS.

LEAs. For SY 2020–2021 (the most recent IDEA section 618 data available, reported by SEAs in May 2022), SEAs identified 825 LEAs, across 39 States, with significant disproportionality. While this number represents only 5 percent of all LEAs in the country, it is a significant increase from the number of LEAs identified in SY 2018–2019. Of the 825 LEAs identified in SY 2020–2021, 648 LEAs had not been identified with significant disproportionality in the previous two school years and 99 LEAs had been repeatedly identified in all three reporting years.

The Department's analysis of the above data—*i.e.,* the simultaneous increase in the number of LEAs identified by the State for the first time and the number of LEAs that have continued to be identified with significant disproportionality—is that SEAs have varying needs for TA to correctly use their IDEA data to both identify and address significant disproportionality in their LEAs. In particular, SEAs with LEAs that have been identified as having significant disproportionality in multiple years may require additional TA to assist LEAs in conducting more robust root cause analyses, including using various data to identify and address the factors contributing to the significant disproportionality. In addition, SEAs with LEAs newly identified as having significant disproportionality may require additional TA on how to support LEAs, whether in reviewing their policies, practices, and procedures in the area in which the significant disproportionality was identified, or in conducting a robust root cause analysis to identify and address factors contributing to the significant disproportionality.

Additionally, based on a review of IDEA Part B State Performance Plans and Annual Performance Reports (SPP/APR) submitted by SEAs since 2016, the Office of Special Education Programs (OSEP) has found multiple instances of States confusing the methodologies used to calculate significant disproportionality with those used to calculate data under SPP/APR Indicator 4 (Suspension/Expulsion) and SPP/APR Indicators 9 and 10 (Disproportionate Representation). While there may be some similarities in these data sets and methodologies, the data analysis required for each is different and based on separate, distinct provisions of the IDEA. The significant disproportionality provision in IDEA section 618(d) requires SEAs to determine whether significant disproportionality on the basis of race and ethnicity is occurring in the State and its LEAs, as it relates to identification, placement, and discipline. In contrast, the reporting under SPP/APR Indicator 4 is based on IDEA section 612(a)(22), which requires SEAs to identify significant discrepancies, including by race and ethnicity, in the rates of long-term suspensions and expulsions of children with disabilities among the LEAs in the State or compared to rates for nondisabled children in those LEAs. SPP/APR Indicator 9 is based on IDEA section 616(a)(3)(C) and requires SEAs to identify LEAs with disproportionate representation of racial and ethnic groups in special education and related services that is the result of inappropriate identification. SPP/APR Indicator 10, also based on IDEA section 616(a)(3)(C), requires SEAs to identify LEAs with disproportionate representation of racial and ethnic groups in specific disability categories that is the result of inappropriate identification. In addition to providing data that is not valid and reliable to the Department, SEA confusion with implementing the methodologies for significant disproportionality and Indicators 4, 9, and 10, may lead to incorrect identification or non-identification of significant disproportionality, significant discrepancy, and disproportionate representation. OSEP has determined that SEAs, and LEAs through their work with SEAs, require additional assistance and resources to help them: (1) collect high-quality data and analyze it according to the SEA's standard methodology; (2) understand what their significant disproportionality data mean; (3) conduct root cause analysis of the data to identify the potential causes and contributing factors of the significant disproportionality; (4) evaluate policies, practices, and procedures that may be contributing to the significant disproportionality; and (5) make changes, including through the expenditure of IDEA funds for CCEIS, in any policy, practice, or procedure, and address any other factors, identified as contributing to the significant disproportionality.

To meet the array of complex challenges regarding the collection, reporting, analysis, and use of data by States, OSEP proposes a priority to establish and operate the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Data to Address Significant Disproportionality.

Proposed Priority:

The purpose of the National Technical Assistance Center to Improve State Capacity to Collect, Report, Analyze, and Use Accurate IDEA Data to Address Significant Disproportionality (Center) is to promote equity by improving State capacity to accurately collect, report, analyze, and use section 618 data to address issues of significant disproportionality. The Center will also work to increase the capacity of State educational agencies (SEAs), and local educational agencies (LEAs) through their work with SEAs, to use their data to conduct robust root cause analyses and identify evidence-based strategies for effectively using funds reserved for comprehensive coordinated early intervening services (CCEIS).

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

(a) Increased capacity of SEAs to analyze and use their data collected and reported under section 618 of IDEA to accurately identify significant disproportionality in the State and the LEAs of the State;

(b) Increased capacity of SEAs, and LEAs through their work with SEAs, to use data collected and reported under section 618 of IDEA, as well as other available data, to conduct root cause analyses in order to identify the potential causes and contributing factors of an LEA's significant disproportionality;

(c) Improved capacity of SEAs, and LEAs through their work with SEAs, to review and, as necessary, revise policies, practices, and procedures identified as contributing to significant disproportionality, and to address any other factors identified as contributing to the significant disproportionality;

(d) Improved capacity of SEAs to assist LEAs, as needed, in using data to drive decisions related to the use of funds reserved for CCEIS;

(e) Increased capacity of SEAs, and LEAs through their work with SEAs, to use data to address disparities revealed in the data they collect; and

(f) Improved capacity of SEAs, and LEAs through their work with SEAs, to accurately collect, report, analyze, and use data related to significant disproportionality and apply the state methodology for identifying significant disproportionality, including distinguishing data collected under section 616 of the IDEA (SPP/APR Indicator 4 (Suspension/Expulsion) and SPP/APR Indicators 9 and 10 (Disproportionate Representation); and

(g) Increased capacity of SEAs to use data to evaluate their own methodology for identifying significant disproportionality.

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

administrative requirements in this priority, which are:

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

(1) Address State challenges in collecting, analyzing, reporting, and using their data collected under section 618 of IDEA to correctly identify and address significant disproportionality. To meet this requirement the applicant must—

(i) Demonstrate knowledge of IDEA data collections, including data required under sections 616 and 618 of IDEA, as well as the requirements related to significant disproportionality in section 618(d) of IDEA;

(ii) Present applicable national, State, and local data to demonstrate the capacity needs of SEAs, and LEAs through their work with SEAs, to analyze and use their data collected under section 618 of IDEA to identify and address significant disproportionality;

(iii) Describe how SEAs, and LEAs through their work with SEAs, are currently analyzing and using their data collected under section 618 of IDEA to identify and address significant disproportionality; and

(iv) Present information about the difficulties SEAs, and LEAs through their work with SEAs, have in collecting, reporting, analyzing, and using their IDEA section 618 data to address significant disproportionality; and

(2) Result in improved IDEA data collection, reporting, analysis, and use in identifying and addressing significant disproportionality.

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

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that products and services meet the needs of the intended recipients of the grant;

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

(i) Measurable intended project outcomes; and

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

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

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

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

(i) The current information on the capacity of SEAs to use IDEA section 618 data to correctly identify significant disproportionality and assist LEAs as they conduct root cause analyses and review LEA policies, practices, and procedures;

(ii) Current research and EBPs on effective practices to address disproportionality, particularly through the provision of CCEIS; and

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

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

(i) How it proposes to identify or develop the knowledge base on the capacity needs of SEAs, and LEAs through their work with SEAs, to collect, report, analyze, and use IDEA section 618 data in a manner that correctly identifies and addresses significant disproportionality in States and LEAs;

(ii) Its proposed approach to universal, general TA,[6] which must identify the intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA,[7] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA,[8] which must identify—

(A) The intended recipients, including the type and number of recipients, that will receive the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEA personnel to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the SEA level;

(C) Its proposed plan for assisting SEAs to build or enhance training systems related to the use of IDEA section 618 data to correctly identify and address significant disproportionality that include professional development based on adult learning principles and coaching;

(D) Its proposed plan for working with appropriate levels of the education

[5] For purposes of these requirements, ''evidence-based practices'' (EBPs) means, at a minimum, demonstrating a rationale (as defined in 34 CFR 77.1) based on high-quality research findings or positive evaluation that such activity, strategy, or intervention is likely to improve student outcomes or other relevant outcomes.

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

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

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

system (*e.g.,* SEAs, regional TA providers, LEAs, schools, and families) to ensure that there is communication between each level and that there are systems in place to support the capacity needs of SEAs, and LEAs through their work with SEAs, to collect, report, analyze, and use IDEA section 618 data to correctly identify and address significant disproportionality; and

(E) Its proposed plan for collaborating and coordinating with Department-funded projects, including those providing data-related support to States, such as the IDEA Data Center, the Early Childhood Data Center, the Center for IDEA Fiscal Reporting, the Center on the Integration of IDEA Data, the National Center for Systemic Improvement, the ED*Facts* Initiative, and Institute of Education Sciences/National Center for Education Statistics research and development investments, where appropriate, in order to align complementary work and jointly develop and implement products and services to meet the purposes of this priority;

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

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

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

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

(c) In the narrative section of the application under ''Quality of the project evaluation,'' include an evaluation plan for the project developed in consultation with and implemented by a third-party evaluator.[9] The evaluation plan must—

(1) Articulate formative and summative evaluation questions, including important process and outcome evaluation questions. These questions should be related to the project's proposed logic model required in paragraph (b)(2)(ii) of these requirements;

(2) Describe how progress in and fidelity of implementation, as well as project outcomes, will be measured to answer the evaluation questions. Specify the measures and associated instruments or sources for data appropriate to the evaluation questions. Include information regarding reliability and validity of measures where appropriate;

(3) Describe strategies for analyzing data and how data collected as part of this plan will be used to inform and improve service delivery over the course of the project and to refine the proposed logic model and evaluation plan, including subsequent data collection;

(4) Provide a timeline for conducting the evaluation and include staff assignments for completing the plan. The timeline must indicate that the data will be available annually for the APR and at the end of Year 2 for the review process; and

(5) Dedicate sufficient funds in each budget year to cover the costs of developing or refining the evaluation plan in consultation with a third-party evaluator, as well as the costs associated with the implementation of the evaluation plan by the third-party evaluator.

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

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

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

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

(4) The proposed costs are reasonable in relation to the anticipated results and benefits, and funds will be spent in a way that increases their efficiency and cost-effectiveness, including by reducing waste or achieving better outcomes.

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

(1) The proposed management plan will ensure that the project's intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project's intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements:

(1) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(2) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, or virtually, after receipt of the award, and an annual planning meeting in Washington, DC, or virtually, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: The project must reallocate unused travel funds no later than the end of the third quarter if the kick-off or planning meetings are conducted virtually.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative;

(ii) A two and one-half day project directors' conference in Washington, DC, or virtually, during each year of the project period; and

Note: The project must reallocate unused travel funds no later than the end of the third quarter of each budget period if the conference is conducted virtually.

(iii) Three annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP;

(3) Include, in the budget, a line item for an annual set-aside of 5 percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by, the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(4) Maintain a high-quality website, with an easy-to-navigate design, that

[9] A ''third-party'' evaluator is an independent and impartial program evaluator who is contracted by the grantee to conduct an objective evaluation of the project. This evaluator must not have participated in the development or implementation of any project activities, except for the evaluation activities, nor have any financial interest in the outcome of the evaluation.

meets government or industry-recognized standards for accessibility; and

(5) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period and at the end of this award period, as appropriate.

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority and Requirements

We will announce the final priority and requirements in a document in the **Federal Register**. We will determine the final priority and requirements after considering responses to this document and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use this proposed priority and one or more of these requirements, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563 Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

OMB has determined that this proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We also have reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing the proposed priority and requirements only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563. In summary, the potential costs associated with this priority would be minimal, while the potential benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program would outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be excessively burdensome for eligible applicants, including small entities.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document.

Paperwork Reduction Act of 1995

The proposed priority contains information collection requirements that are approved by OMB under OMB control number 1820–0028; the proposed priority does not affect the currently approved data collection.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum ''Plain Language in Government Writing'' require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priority easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments about how the Department could make these proposed regulations easier to understand, see the instructions in the **ADDRESSES** section.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration (SBA) Size Standards define ''small entities'' as for-profit or nonprofit institutions with total annual revenue below $7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

The small entities that this proposed regulatory action would affect are LEAs, including charter schools that operate as LEAs under State law; institutions of higher education; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations. We believe that the costs imposed on an applicant by the proposed priority would be limited to paperwork burden related to preparing an application and that the benefits of the proposed priority would outweigh any costs incurred by the applicant.

Participation in the Technical Assistance on State Data Collection program is voluntary. For this reason, the proposed priority would impose no burden on small entities unless they applied for funding under the program. We expect that in determining whether to apply for Technical Assistance on State Data Collection program funds, an eligible entity would evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving a Technical Assistance on State Data Collection program grant. An eligible entity probably would apply only if it determines that the likely benefits exceed the costs of preparing an application.

We believe that the proposed priority would not impose any additional burden on a small entity applying for a grant than the entity would face in the absence of the proposed action. That is, the length of the applications those entities would submit in the absence of the proposed regulatory action and the time needed to prepare an application would likely be the same.

This proposed regulatory action would not have a significant economic impact on a small entity once it receives a grant because it would be able to meet the costs of compliance using the funds provided under this program. We invite comments from eligible small entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at: *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Deputy Assistant Secretary. Delegated the authority to perform the functions and duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2023–06417 Filed 3–24–23; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2020–0425; FRL–10618–01–R9]

Disapproval of Clean Air Plans; Sacramento Metro, California; Contingency Measures for 2008 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to disapprove under the Clean Air Act (CAA or ''Act'') state implementation plan (SIP) submissions from the State of California that address contingency measures requirements for the 2008 ozone national ambient air quality standards (NAAQS or ''standards'') in the Sacramento Metro, California ozone nonattainment area. The SIP revisions include the portions of the following documents that address the contingency measures requirements: the ''Sacramento Regional 2008 NAAQS 8-hour Ozone Attainment and Reasonable Further Progress Plan,'' submitted in 2017 (''2017 Sacramento Regional Ozone Plan''), and the Sacramento Metro portion of the ''2018 Updates to the California State Implementation Plan'' (''2018 SIP Update''). The EPA is proposing this disapproval because the SIP revisions do not provide for contingency

measures that would be triggered if the area fails to attain the NAAQS or make reasonable further progress (RFP).

DATES: Written comments must arrive on or before April 27, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2020–0425 at *https://www.regulations.gov*. For comments submitted at *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 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For 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*. If you need assistance in a language other than English or if you are a person with a disability who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Lawrence, EPA Region IX, (415) 972–3407, *lawrence.laura@epa.gov*.

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

Table of Contents

I. Background

A. Ozone Air Pollution and Regulatory Framework

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight.[1] These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on- and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse health effects occur following exposure to elevated levels of ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.[2]

Under section 109 of the CAA, the EPA promulgates NAAQS for pervasive air pollutants, such as ozone. The EPA has previously promulgated NAAQS for ozone in 1979 and 1997.[3] In 2008, the EPA revised and further strengthened the ozone NAAQS by setting the acceptable level of ozone in the ambient air at 0.075 parts per million (ppm) averaged over an 8-hour period.[4] Although the EPA further tightened the 8-hour ozone NAAQS to 0.070 ppm in 2015, this action relates to the requirements for the 2008 ozone NAAQS.[5]

Following promulgation of a new or revised NAAQS, the EPA is required under CAA section 107(d) to designate areas throughout the country as attaining or not attaining the NAAQS. The EPA classifies ozone nonattainment areas under CAA section 181 according to the severity of the ozone pollution problem, with classifications ranging from ''Marginal'' to ''Extreme.'' State planning and emissions control requirements for ozone are determined, in part, by the nonattainment area's classification.

B. Sacramento Metro Nonattainment Area

The EPA designated the Sacramento Metro area as nonattainment for the 2008 8-hour ozone NAAQS on May 21, 2012, and classified the area as ''Severe 15.''[6] The Sacramento Metro area consists of Sacramento and Yolo counties and portions of El Dorado, Placer, Solano and Sutter counties.[7] The applicable attainment date for the 2008 ozone NAAQS for the Sacramento Metro area is December 31, 2024.[8]

In California, the California Air Resources Board (CARB) is the state agency responsible for the adoption and submission to the EPA of California SIP submissions, and it has broad authority to establish emissions standards and other requirements for mobile sources. Under California law, local and regional air pollution control districts in California are responsible for the regulation of stationary sources and are generally responsible for the development of regional air quality plans. In the Sacramento Metro area, the El Dorado County Air Quality Management District (EDCAQMD), the Feather River Air Quality Management District (FRAQMD), the Placer County Air Pollution Control District (PCAPCD), the Sacramento Metropolitan Air Quality Management District (SMAQMD), and the Yolo-Solano Air Quality Management District (YSAQMD) (collectively, ''Districts'') develop and adopt air quality management plans to address CAA planning requirements applicable to the region. The Districts then submit such plans to CARB for adoption and submission to the EPA as proposed revisions to the California SIP.

C. State Implementation Plan Revisions and Previous EPA Rulemaking

Under the CAA, after the EPA designates areas as nonattainment for a NAAQS, states with nonattainment areas are required to submit SIP revisions. With respect to areas designated as nonattainment, states must implement the 2008 8-hour ozone NAAQS under Title 1, part D of the

[1] The State of California refers to reactive organic gases (ROG) rather than VOC in some of its ozone-related SIP submissions. As a practical matter, ROG and VOC refer to the same set of chemical constituents, and for simplicity, we refer to this set of gases as VOC in this proposed rule.

[2] For more information on ozone health effects, see ''Fact Sheet—2008 Final Revisions to the National Ambient Air Quality Standards for Ozone,'' dated March 2008.

[3] The ozone NAAQS promulgated in 1979 was 0.12 parts per million (ppm) averaged over a 1-hour period. For information on the 1979 NAAQS, see 44 FR 8202 (February 8, 1979). The ozone NAAQS promulgated in 1997 was 0.08 ppm averaged over an 8-hour period. For information on the 1997 NAAQS, see 62 FR 38856 (July 18, 1997).

[4] 73 FR 16436 (March 27, 2008).

[5] Information on the 2015 ozone NAAQS is available at 80 FR 65292 (October 26, 2015).

[6] 77 FR 30088. ''Severe-15'' signifies a Severe area that is required to attain the ozone standards within 15 years under CAA section 181(a)(1).

[7] For a precise description of the geographic boundaries of the Sacramento Metro area for the 2008 ozone standards, see 40 CFR 81.305. Specifically included portions are the eastern portion of Solano County, the western portions of Placer and El Dorado counties outside of the Lake Tahoe Air Basin, and the southern portion of Sutter County.

[8] 85 FR 68509, 68510 (October 29, 2020).

CAA, which includes section 172 (''Nonattainment plan provisions in general'') and sections 181–185 of subpart 2 (''Additional provisions for ozone nonattainment areas''). To assist states in developing effective plans to address ozone nonattainment problems, in 2015, the EPA issued a SIP Requirements Rule (SRR) for the 2008 8-hour ozone NAAQS (''2008 Ozone SRR'') that addressed implementation of the 2008 standards, including attainment dates, requirements for emissions inventories, attainment and RFP demonstrations, as well as the transition from the 1997 8-hour ozone NAAQS to the 2008 8-hour ozone NAAQS and associated anti-backsliding requirements.[9] The 2008 Ozone SRR is codified at 40 CFR part 51, subpart AA.

On December 18, 2017, CARB submitted the ''Sacramento Regional 2008 NAAQS 8-Hour Ozone Attainment and Reasonable Further Progress Plan'' (''2017 Sacramento Regional Ozone Plan'') to the EPA as a revision to the California SIP.[10] The 2017 Sacramento Regional Ozone Plan addresses the nonattainment area requirements for the Sacramento Metro area concerning the 2008 ozone NAAQS, including the contingency measures element. On December 11, 2018, CARB submitted the ''2018 Updates to the California State Implementation Plan'' (''2018 SIP Update'').[11] The 2018 SIP Update provides updates to prior SIP submittals for eight California nonattainment areas, including information to support the contingency measures element of the 2017 Sacramento Regional Ozone Plan in the wake of the decision by the U.S. Court of Appeals for the Ninth Circuit (''Ninth Circuit'') in *Bahr* v. *EPA*.[12]

In 2020, CARB and the Districts committed to supplement these contingency measures by adopting and submitting additional contingency measures that would be triggered upon the area's failure to attain or to meet RFP. In a letter dated May 26, 2020, the Districts committed to amend their respective architectural coatings rules,[13] and the SMAQMD committed to adopt a new rule for reducing VOC emissions from liquified petroleum gas transfer and dispensing, commensurate with South Coast Air Quality Management District Rule 1177.[14] CARB forwarded the Districts' May 26, 2020 letter to the EPA on July 7, 2020, accompanied by a letter committing to submit amended rules to the EPA as a revision to the California SIP within 12 months of a final conditional approval of the contingency measures element.[15]

On October 29, 2020, the EPA proposed to approve the 2017 Sacramento Regional Ozone Plan and the 2018 SIP Update as meeting the emissions inventory, attainment demonstration, reasonable further progress, reasonably available control measures, and motor vehicle emissions budgets requirements for the 2008 ozone NAAQS for the Sacramento Metro nonattainment area.[16] In that same proposed rule, we proposed to conditionally approve the contingency measures element of these submittals, based on the commitments by the Districts and CARB to submit the new and amended district rules to the EPA within 12 months of a final conditional approval of the contingency measures element for the Sacramento Metro area.[17] On August 26, 2021, the Ninth Circuit issued a decision in *Association of Irritated Residents* v. *U.S. Environmental Protection Agency*[18] (''*AIR* v. *EPA*'') which remanded the EPA's conditional approval of contingency measures for another California nonattainment area.

On October 22, 2021, we finalized our approval of the 2017 Sacramento Regional Ozone Plan and the 2018 SIP Update with respect to the emissions inventory, attainment demonstration, RFP, reasonably available control measures, and motor vehicle emissions budgets requirements.[19] Based on the Ninth Circuit's decision in *AIR* v. *EPA,* we did not finalize our proposed conditional approval of the contingency measures element at that time.[20] Because the EPA did not finalize our conditional approval of the contingency measures element, the 12-month period during which CARB and the Districts committed to submit supplemental contingency measures never commenced, and CARB and the Districts have not adopted or submitted the rules and revisions identified in their commitment letters.

This proposed action replaces our earlier proposed conditional approval of the contingency measures element.

II. Evaluation

A. Procedural Requirements for Adoption and Submission of SIP Revisions

CAA sections 110(a) and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision. To meet this requirement, every SIP submission should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102. The EPA previously determined that the Districts and CARB have fulfilled the applicable requirements for public notice and public hearing for the 2017 Sacramento Regional Ozone Plan and 2018 SIP Update.[21]

[9] 80 FR 12264 (March 6, 2015).

[10] Letter dated December 18, 2017, from Richard Corey, Executive Officer, CARB, to Alexis Strauss, Acting Regional Administrator, EPA Region IX.

[11] Letter dated December 5, 2018, from Richard Corey, Executive Officer, CARB, to Mike Stoker, Regional Administrator, EPA Region IX (submitted electronically December 11, 2018). Our previous proposed action at 85 FR 68509 and final action at 86 FR 58581 misidentified the date of the submittal of the 2018 SIP Update as December 5, 2018. While the letter accompanying the submittal is dated December 5, 2018, the EPA received the submittal electronically on December 11, 2018. For more information, see the eSIPs Application State Implementation Plan Summary Page in the docket for this rulemaking. CARB adopted the 2018 SIP Update on October 25, 2018.

[12] *Bahr* v. *EPA,* 836 F.3d 1218 (9th Cir. 2016). In this case, the court rejected the EPA's longstanding interpretation of CAA section 172(c)(9) as allowing for early implementation of contingency measures. The court concluded that a contingency measure must take effect at the time the area fails to make RFP or attain by the applicable attainment date, not before. See also *Sierra Club* v. *EPA,* 985 F.3d 1055 (D.C. Cir. 2021), reaching a similar decision. For a more complete description of the 2017 Sacramento Regional Ozone Plan and 2018 SIP Update as they relate to the Sacramento Metro nonattainment area for the 2008 ozone NAAQS, see 85 FR 68509, 68512.

[13] Specifically, the Districts committed to amend their respective architectural coating rules to be consistent with the CARB Architectural Coatings Suggested Control Measure (SCM), as adopted on May 21, 2019. This would include lowering the VOC limits for several coating categories, deleting the coating categories for non-flats, stains, floor, and some other specialty coatings, and establishing new VOC content limits for colorants.

[14] Letter dated May 26, 2020, from Alberto Ayala, Ph.D., M.S.E, Executive Officer/Air Pollution Control Officer, SMAQMD, Dave Johnston, Air Pollution Control Officer, EDCAQMD, Christopher Brown, AICP, Air Pollution Control Officer, FRAQMD, Erik White, Air Pollution Control Officer, PCAPCD, and Mat Erhardt, P.E., Executive Director/Air Pollution Control Officer, YSAQMD, to Richard Corey, Executive Officer, CARB, Subject: ''Commitments from the Sacramento Federal Nonattainment Area Districts to Adopt and/or Amend Rules as Contingency Measures for the Sacramento Regional 2008 NAAQS 8-Hour Ozone Attainment and Reasonable Further Progress Plan.''

[15] Letter dated July 7, 2020, from Richard W. Corey, Executive Officer, CARB, to John Busterud, Regional Administrator, EPA Region IX.

[16] 85 FR 68509.

[17] Id.

[18] 10 F.4th 937 (9th Cir. 2021).

[19] 86 FR 58581.

[20] See id. at 58590 (responding to comments on proposed approval of contingency measures element submitted by Air Law for All, Ltd. on behalf of Center for Biological Diversity and Center for Environmental Health).

[21] 85 FR 68509, 68512; 86 FR 58581, 58582–83.

B. Evaluation for Compliance With Clean Air Act Contingency Measures Requirements

Under the CAA, ozone nonattainment areas classified under subpart 2 as ''Serious'' or above must include in their SIPs contingency measures consistent with sections 172(c)(9) and 182(c)(9). CAA section 172(c)(9) requires states with nonattainment areas to provide for the implementation of specific measures to be undertaken if the area fails to make RFP or to attain the NAAQS by the applicable attainment date. Such measures must be included in the SIP as contingency measures to take effect in any such case without further action by the state or the EPA. Section 182(c)(9) requires states to provide contingency measures in the event that an ozone nonattainment area fails to meet any applicable RFP milestone.

Contingency measures are additional controls or measures to be implemented in the event an area fails to make RFP or to attain the NAAQS by the attainment date. Contingency measures must be designed so as to be implemented prospectively; already-implemented control measures may not serve as contingency measures even if they provide emissions reductions beyond those needed for any other CAA purpose.[22] The SIP should contain trigger mechanisms for the contingency measures, specify a schedule for implementation, and indicate that the measure will be implemented without significant further action by the state or the EPA.[23]

Neither the CAA nor the EPA's implementing regulations establish a specific amount of emissions reductions that implementation of contingency measures must achieve, but the 2008 Ozone SRR reiterates the EPA's guidance recommendation that contingency measures should provide for emissions reductions approximately equivalent to one year's worth of RFP, thus amounting to reductions of three percent of the baseline emissions inventory for the nonattainment area.[24] In *AIR* v. *EPA,* the Ninth Circuit remanded the EPA's approval of ozone contingency measures for the San Joaquin Valley and held that, under the EPA's existing guidance, the surplus emissions reductions from already-implemented measures cannot be relied upon to justify the approval of a contingency measure that would achieve far less than one year's worth of RFP as sufficient by itself to meet the contingency measures requirements of CAA sections 172(c)(9) and 182(c)(9) for the nonattainment area.[25]

The Districts and CARB had largely prepared the 2017 Sacramento Regional Ozone Plan prior to the *Bahr* decision; therefore, the plan relies solely upon surplus emissions reductions from already implemented control measures in the RFP milestone years to demonstrate compliance with the RFP milestone contingency measures requirements of CAA sections 172(c)(9) and 182(c)(9).[26] The plan also demonstrates compliance with the attainment contingency measures requirements using surplus emissions reductions (in the year after the attainment year).[27]

In the 2018 SIP Update, CARB revised the RFP demonstration for the 2008 ozone NAAQS for the Sacramento Metro area and recalculated the extent of surplus emission reductions in the milestone years.[28] Consistent with the *Bahr* decision, the 2018 SIP Update does not rely on the surplus or incremental emissions reductions from already-implemented measures to comply with the contingency measures requirements of sections 172(c)(9) and 182(c)(9) but instead documents the extent to which future baseline emissions from such measures would provide surplus emissions reductions beyond those required to meet applicable contingency measures requirements, to provide context for determining the magnitude of the emissions reductions needed from prospective-acting, to-be-triggered contingency measures.[29]

As noted in Section I.C of this notice, the EPA previously proposed a conditional approval of the Districts' contingency measures, based upon commitments by the Districts and CARB to adopt and submit additional contingency measure provisions in District rules within 12 months of the final conditional approval. Since the EPA did not finalize the conditional approval, the Districts and CARB did not submit the additional contingency measure provisions. Thus, the relevant submittals before us are limited to the portions of the 2017 Sacramento Regional Ozone Plan and 2018 SIP Update that address the contingency measures requirements for the Sacramento Metro area.

As described above, these submittals provide only an analysis of surplus emissions, and do not include specific measures to be triggered upon a failure to attain or to meet an RFP milestone that would achieve one year's worth of progress. This approach is inconsistent with CAA sections 172(c)(9) and 182(c)(9), in light of the Ninth Circuit's decisions in *Bahr* and *AIR,* and accordingly we are proposing to disapprove these portions of the 2017 Sacramento Regional Ozone Plan and 2018 SIP Update as contingency measures for the Sacramento Metro area for the 2008 ozone NAAQS.

III. Proposed Action and Clean Air Act Consequences

For the reasons given in this notice, we are proposing to disapprove the 2017 Sacramento Regional Ozone Plan and the 2018 SIP Update with respect to CAA contingency measures requirements under CAA section 172(c)(9) and 182(c)(9) for the Sacramento Metro area for the 2008 ozone NAAQS.

If the EPA finalizes the proposed disapproval of the contingency measures element of the 2017 Sacramento Regional Ozone Plan, as modified by the 2018 SIP Update, the area would be eligible for a protective finding under the transportation conformity rule because these submittals reflect adopted control measures and contain enforceable commitments that fully satisfy the emissions reductions requirements for RFP and attainment for the 2008 Ozone NAAQS.[30]

[22] See *Bahr* v. *EPA,* 836 F.3d 1218, 1235–1237 (9th Cir. 2016) (''*Bahr*'').

[23] For more information about the contingency measures requirements see the 1997 Ozone Phase 2 Implementation Rule at 70 FR 71612 (November 29, 2005) and the 2008 Ozone SRR at 80 FR 12264, 12285 (March 6, 2015).

[24] 80 FR 12264, 12285 (March 6, 2015).

[25] *AIR* v. *EPA,* 10 F.4th 937.

[26] ''Sacramento Regional 2008 NAAQS 8-hour Ozone Attainment and Reasonable Further Progress Plan,'' July 24, 2017, 12–1 to 12–6.

[27] Id. at 8–5 to 8–6.

[28] ''2018 Updates to the California State Implementation Plan,'' October 25, 2018, 27–34.

[29] The 2018 SIP Update identifies enhanced enforcement activities intended to serve as contingency measure to be triggered upon a failure to attain or meet RFP. See 2018 SIP Update, Chapter X. However, CARB subsequently withdrew this measure from consideration for inclusion in the Sacramento Metro portion of the California SIP. See letter dated January 8, 2021, from Richard W. Corey, Executive Officer, CARB, to John W. Busterud, Regional Administrator, EPA Region IX.

[30] 40 CFR 93.120(a)(3). Without a protective finding, the final disapproval would result in a conformity freeze, under which only projects in the first four years of the most recent conforming Regional Transportation Plan (RTP) and Transportation Improvement Programs (TIP) can proceed. Generally, during a freeze, no new RTPs, TIPs, or RTP/TIP amendments can be found to conform until another control strategy implementation plan revision fulfilling the same CAA requirements is submitted, the EPA finds its motor vehicle emissions budget(s) adequate pursuant to 40 CFR 93.118 or approves the submission, and conformity to the implementation plan revision is determined. Under a protective finding, the final disapproval of the contingency measures element would not result in a transportation conformity freeze in the Sacramento

Continued

Further, if we finalize this proposed disapproval of the contingency measures element, the EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. In addition, under 40 CFR 52.35, the offset sanction in CAA section 179(b)(2) will be imposed 18 months after the effective date of this action, and the highway funding sanction in CAA section 179(b)(1) six months after the offset sanction is imposed. A sanction will not be imposed if the EPA determines that a subsequent SIP submission corrects the identified deficiencies before the applicable deadline.

IV. Request for Public Comment

The EPA is soliciting public comments on the issues discussed in this document. We will accept comments from the public on this proposal for the next 30 days and will consider comments before taking final action.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www2.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Order 12866, Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This proposed action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

This proposed action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because this proposed SIP disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new information collection burdens, but simply disapproves certain state requirements submitted for inclusion into the SIP. Burden is defined at 5 CFR 1320.3(b).

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) a small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed action on small entities, I certify that this proposed action will not have a significant impact on a substantial number of small entities. This proposed rule does not impose any requirements or create impacts on small entities. This proposed SIP disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new requirements but simply disapproves certain state requirements submitted for inclusion into the SIP. Accordingly, it affords no opportunity for the EPA to fashion for small entities less burdensome compliance or reporting requirements or timetables or exemptions from all or part of the rule. The fact that the CAA prescribes that various consequences (*e.g.,* higher offset requirements) may or will result from disapproval actions does not mean that the EPA either can or must conduct a regulatory flexibility analysis for this proposed action. Therefore, this proposed action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

This proposed action contains no Federal mandates under the provisions of title II of the Unfunded Mandates Reform Act of 1995 (UMRA), 2 U.S.C. 1531–1538 for state, local, or tribal governments or the private sector. The EPA has determined that the proposed disapproval action does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This action proposes to disapprove pre-existing requirements under state or local law and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this proposed action.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' This proposed 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 states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely disapproves certain state requirements for inclusion into the SIP and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, Executive Order 13132 does not apply to this proposed action.

F. Executive Order 13175, Coordination With Indian Tribal Governments

This proposed action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP that the EPA is proposing to disapprove would 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, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this proposed action.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This proposed action is not subject to Executive Order 13045 because it is not an economically significant regulatory action based on health or safety risks subject to

Metro ozone nonattainment area and the local metropolitan planning organizations may continue to make transportation conformity determinations.

Executive Order 13045 (62 FR 19885, April 23, 1997). This proposed SIP disapproval under section 110 and subchapter I, part D of the CAA will not in-and-of itself create any new regulations but simply disapproves certain state requirements submitted for inclusion into the SIP.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, 12(d) (15 U.S.C. 272 note) 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. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. NTTAA directs the EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. The EPA believes that this proposed action is not subject to requirements of Section 12(d) of 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 Population

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. EPA defines environmental justice 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.''

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to review state choices, and approve those choices if they meet the minimum criteria of the Act. Accordingly, this action proposes to disapprove state submittals as not meeting federal requirements, and does not impose any additional requirements beyond those imposed by state law. Neither CARB nor the Districts evaluated environmental justice considerations as part of these SIP submittals; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an environmental justice analysis and did not consider environmental justice in this action. Consideration of environmental justice is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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.

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

Dated: March 22, 2023.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2023–06345 Filed 3–27–23; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 88, No. 59
Tuesday, March 28, 2023

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

AGENCY FOR INTERNATIONAL DEVELOPMENT

USAID Revisions to ADS 201 Evaluation Report Requirements

AGENCY: U.S. Agency for International Development (USAID).

ACTION: Notice of information collection; request for comment.

SUMMARY: The Foreign Assistance Transparency and Accountability Act (2016) and The Foundations for Evidence Based Policy-Making Act (2019) enhance the transparency, accuracy, and reliability of USAID program and activity evaluations and processes of data collection and reporting. To comply with these Acts, USAID is currently revising the policy associated with its Evaluation Report Requirements. The requirements collect information from evaluators to establish the validity of research methodologies, standardize the presentation of research, ensure accuracy, and identify any conflicts of interest that could create bias or influence data analysis, findings, or recommendations. As required by the Paperwork Reduction Act of 1995, as amended, USAID is soliciting comments for this collection.

DATES: USAID intends to issue the policy revisions in mid-2023. Comments are due May 23, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Tania Alfonso, *talfonso@usaid.gov,* 202–712–0144.

SUPPLEMENTARY INFORMATION: USAID, 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 the proposed survey.

Title of Collection: USAID Revisions to ADS 201 Evaluation Report Requirements.

OMB Control Number: XXXXXX.

Type of Review: A new information collection.

Respondents/Affected Public: USAID evaluation contractors.

Total Estimated Number of Annual Responses: 130.

Total Estimated Number of Annual Burden Hours: 2,730.

Abstract: After a contractor is hired to evaluate a program or activity, USAID issues to the contractor three standardized information collection forms that are designed to ensure compliance with data quality and reporting standards as outlined in USAID's Automated Directives System (ADS) 201 and its annexes, including: one of three optional Evaluation Design Matrices; an Evaluation Report Template to be used for the submission of the final, and; a Disclosure of Conflicts of Interest to be completed by the contractor's team leaders and researchers. The Evaluation Design Matrix provides a structured format for the contractor to present the overall approach and methodology for the contracted evaluation. Specifically, the optional form asks contractors to detail key research questions, sources of information, scope and methodology, and study limitations in the form of a table. The Evaluation Report Template guides the evaluator in submitting a final draft of the research report, including requiring the use of appropriate branding and marking on the cover page, style and formatting of the report, and required information and order of sections. Finally, external evaluators and evaluation team members are required to complete and submit to USAID a Disclosure of Conflicts of Interest form to disclose all relevant facts regarding real or potential conflicts of interest that could lead reasonable third parties with knowledge of the relevant facts and circumstances to conclude that the evaluator or evaluation team member is not able to maintain independence and, thus, is not capable of exercising objective and impartial judgment on all issues associated with conducting and reporting the work. USAID uses the data from the collection of information in these three types of forms for internal decision-making and external reporting requirements to the U.S. Congress. Copies of the information collection forms can be found in USAID's Learning Lab in the Evaluation Toolkit. The data collected in the required forms will be available to the public when the Final Report is posted on the Development Experience Clearinghouse.

USAID and the Office of Management and Budget are particularly interested in comments that:

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 submissions of responses.

Tania Alfonso,

PPL/LER, Program Cycle Supervisory Team Lead, USAID.

[FR Doc. 2023–06317 Filed 3–27–23; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc. No. AMS–AMS–22–0091]

Federal Seed Act Labeling and Enforcement; Request for an Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA

ACTION: Notice; request for comments.

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 (OMB), for an extension of and revision to the currently approved information collection of the Federal Seed Act Labeling and Enforcement.

DATES: Comments on this notice must be received by May 30, 2023 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.* Written comments may also be submitted to Ernest L. Allen, Director, Seed Regulatory and Testing Division, Science and Technology Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054–2193. All comments should reference the document number and the date and page number of this issue of the **Federal Register**. All comments received 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.

FOR FURTHER INFORMATION CONTACT: Ernest L. Allen, Seed Regulatory and Testing Division, Science and Technology Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 801 Summit Crossing Place, Suite C, Gastonia, North Carolina 28054–2193; Telephone: (704)810–8870; Email: *Ernest.Allen@usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Federal Seed Act Program.

OMB Number: 0581–0026.

Expiration Date of Approval: March 31, 2023.

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

Abstract: This information collection and these recordkeeping requirements are necessary to conduct the Federal Seed Act (FSA) (7 U.S.C. 1551 *et seq.*) program with respect to certain testing, labeling, and recordkeeping requirements for agricultural and vegetable seeds in interstate commerce. Regulations under the FSA are contained in 7 CFR part 201.

The FSA, Title II, is a truth-in-labeling law that regulates agricultural and vegetable planting seed in interstate commerce. Seed subject to the FSA must be labeled with certain quality information and Title II requires that information to be truthful. The FSA prohibits the interstate shipment of falsely advertised seed and seed containing noxious-weed seeds that are prohibited from sale in the State into which the seed is being shipped.

No unique forms are required for this information collection. The FSA requires seed in interstate commerce to be tested and labeled. Once seed enters a State, it must comply with the testing and labeling requirements of that State's seed law. The testing and labeling required by FSA nearly always satisfies the State's testing and labeling requirements. The receiving sales, cleaning, testing, and labeling records required by FSA are also records that the shipper would normally keep in good business practice.

The information in this collection is the minimum information necessary to effectively carry out the enforcement of FSA. With the exception of the requirements for entering a new variety into a State seed certification program (set forth separately below), the information collection is entirely recordkeeping rather than reporting.

While the number of applicants has slightly increased, the number of requests has significantly increased creating an increase in burden hours over the previous submission.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 2.68 hours per response.

Respondents: Interstate shippers and labelers of seed.

Estimated Number of Respondents: 3,484.

Estimated Total Annual Responses: 35,582.

Estimated Number of Responses per Respondent: 10.

Estimated Total Annual Burden on Respondents: 95,361 hours.

Eligibility Requirements for Certification of New Varieties and Recordkeeping

Estimate of Burden: Public reporting burden for this collection of information (eligibility for certification of new varieties) is estimated to average 2.42 hours per response.

Respondents: Entities seeking to enter new varieties into State seed certification programs.

Estimated Number of Respondents: 82.

Estimated Total Annual Responses: 902.

Estimated Number of Responses per Respondent: 11.

Estimated Total Annual Burden on Respondents: 2,183 hours.

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.

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. 2023–06309 Filed 3–27–23; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection: Special Use Administration

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; correction.

SUMMARY: The Forest Service (Forest Service), United States Department of Agriculture, published a notice of an information collection for public comment in the **Federal Register** on February 15, 2023. The Forest Service is correcting the **ADDRESSES** section of that notice.

DATES: Comments must be received in writing by April 17, 2023.

ADDRESSES: Comments concerning this notice should be addressed to USDA Forest Service, Attention: Lands Special Uses, 1400 Independence Avenue SW, Stop 1124, Washington, DC 20250–1124. Comments also may be submitted via facsimile to 202–644–4700 or by email to *reply_lands_staff@usda.gov.* All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying.

SUPPLEMENTARY INFORMATION: The Forest Service is correcting the **ADDRESSES** section of a notice for an information collection that was published for public comment in the **Federal Register** on February 15, 2023 (88 FR 9856) under the Paperwork Reduction Act of 1995

(notice). The notice seeks public comment on reapproval (with no revision) of an approved information collection, Standard Form-299 (SF–299), Application for Transportation, Utility Systems, Telecommunications and Facilities on Federal Lands and Property. The **ADDRESSES** section of the notice is corrected by removing it in its entirety and replacing it with the following: ''Comments concerning this notice should be addressed to USDA Forest Service, Attention: Lands Special Uses, 1400 Independence Avenue SW, Stop 1124, Washington, DC 20250–1124. Comments also may be submitted via facsimile to 202–644–4700 or by email to *reply_lands_staff@usda.gov.* All comments, including names and addresses when provided, will be placed in the record and will be available for public inspection and copying.''

Dated: March 22, 2023.

Troy Heithecker,

Associate Deputy Chief, National Forest System.

[FR Doc. 2023–06352 Filed 3–27–23; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Agency Information Collection Activities; Proposals, Submissions, and Approvals: Qualification Information for Candidates to Advisory Committees

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice.

SUMMARY: The U.S. Commission on Civil Rights (''Commission'' or ''USCCR'') is announcing an opportunity for public comment on the proposed collection of qualification information for advisory committee candidates by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow an additional 30 days for public comment.

DATES: Comments must be received on or before April 24, 2023.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_submission@omb.eop.gov* or *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sheryl Cozart, Senior Attorney-Advisor, Office of the General Counsel, Office of the General Counsel, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue NW, Suite 1150, Washington, DC 20425; phone: 202–839–7255; email: *sccozart@usccr.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. On January 11, 2023, USCCR published a 60-day notice (88 FR 1557) in the **Federal Register** for public comment. USCCR received no comments after issuing this 60-day notice. Accordingly, USCCR announces that these information collection activities have been again evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c). Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30-day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30-day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA. This is a request for a new OMB control number.

Title: ''Qualification Information for Candidates to Advisory Committees.''

Abstract: The Commission studies civil rights issues and subsequently publishes reports with recommendations to inform the President, Congress, and the public. The USCCR's Advisory Committees were created to provide input and make recommendations to the Commission concerning discrimination and denial of equal protection of law, the right to vote, and related civil rights issues. The Commission was established by the Civil Rights Act of 1957, Public Law 815–315, and subsequently modified in the Civil Rights Commission Amendments Act of 1994, 42 U.S.C. 1975a. These laws direct the Commission to establish Advisory Committees for each state, the District of Columbia, and five U.S. territories. These non-discretionary, statutory Advisory Committees are subject to the Federal Advisory Committee Act (FACA), Public Law 92–463 codified as 5 U.S.C. app. 2.

As noted above, the 56 Advisory Committees advise the Commission on civil rights issues that the Committees choose to evaluate. The Commission may also ask Advisory Committees to take up a civil rights topic in support of a Commission investigation. After a Committee's report is submitted, the Commission may invite the Advisory Committee Chair to discuss the report, including the findings and recommendations, at regularly scheduled Commission business meetings. The Commission may notify the U.S. Congressional delegation for the particular locale that the advisory committee within their jurisdiction has published a report. In addition, the Commission may distribute Committee reports to the federal, state, and local bodies that are identified in the Committee report. Lastly, individual Commissioners often attend the Advisory Committee meetings, which are open to the general public.

The USCCR identifies candidates for advisory committee membership through a variety of methods, including, but not limited to, public requests for nominations; recommendations from existing advisory committee members; consultations with knowledgeable persons outside the USSCR (academia, non-profits, other state or federal government agencies, academia, etc.); and Commissioners' and USCCR staff's professional knowledge of those experienced in civil rights. Following the identification process and submission of applications, the USCCR develops a list of proposed members with the relevant points of view needed to ensure membership balance. The USCCR Commissioners then vote to appoint individuals to serve four-year terms as Advisory Committee Members. Advisory Committee Members are generally classified as Representatives. Representatives provide the viewpoints of entities or recognizable groups and are expected to potentially represent a particular and known bias or perspective.

The collection of information is necessary to support the USCCR Advisory Committees by placing qualified individuals on them as members. Pursuant to the FACA, an agency must ensure that a committee is balanced and diverse with respect to the viewpoints represented and the functions to be performed by that committee. Consistent with this, in order to select individuals for potential membership on an advisory committee, the USCCR must determine that potential members are qualified to serve on an advisory committee and that the viewpoints are properly balanced on the committee.

USCCR staff would use the information collected in the applications to determine that members come from the rich and diverse backgrounds of all of the United States and its Territories that USCCR wishes to have represented on its Advisory Committees, to determine the civil rights experience and expertise of potential advisory committee members, and to ensure that the membership on a committee is balanced.

The USCCR seeks to collect the following information in its applications: Information that supports an individual's state or territory residency requirements, civil rights experience and expertise to serve on an advisory committee, including a letter discussing their qualifications, resume or curriculum vitae, and/or other similar biographical information documents such as name and address and social media handles. Additionally, the USCCR seeks to collect information that ensures membership balance (*e.g.,* represented viewpoint category), and that potential members broadly represent the demographics and/or viewpoints of the United States and its Territories' varied and diverse backgrounds including, but not limited to, education, occupation, political affiliation and/or ideology, race/ethnicity, national origin, gender, sexual orientation, disability status, age, religion, and veteran status.

With respect to the collection of information, the USCCR invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

Burden Statement: The respondent burden for this collection is estimated to be as follows for each vacant Advisory Committee:

Estimated Number of Respondents: 22.

Estimated Average Burden Hours per Respondent: 1 hour or less.

Estimated Total Annual Burden Hours: 22 hours or less per each vacant Committee.

Frequency of Collection: Only as needed to fill vacancies, however advisory committee members serve for four (4) years and once members, would not be required to resubmit this information during the term of their membership.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: March 23, 2023.

David Ganz,

General Counsel, USCCR.

[FR Doc. 2023–06384 Filed 3–27–23; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–51–2023]

Foreign-Trade Zone 265; Application for Subzone; Bollore Logistics USA, Inc.; Conroe, Texas

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the City of Conroe, grantee of FTZ 265, requesting subzone status for the facility of Bollore Logistics USA, Inc., located in Conroe, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 23, 2023.

The proposed subzone (15 acres) is located at 3400 Interstate 45 North, Conroe, Texas. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 265.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 8, 2023. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to May 22, 2023.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov.*

Dated: March 23, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–06369 Filed 3–27–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–22–2023]

Foreign-Trade Zone 281—Miami, Florida; Application for Reorganization (Expansion of Service Area) Under Alternative Site Framework

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by Miami-Dade County, grantee of Foreign-Trade Zone 281, requesting authority to reorganize the zone to expand its service area under the alternative site framework (ASF) adopted by the FTZ Board (15 CFR 400.2(c)). The ASF is an option for grantees for the establishment or reorganization of zones and can permit significantly greater flexibility in the designation of new subzones or ''usage-driven'' FTZ sites for operators/users located within a grantee's ''service area'' in the context of the FTZ Board's standard 2,000-acre activation limit for a zone. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 22, 2023.

FTZ 281 was approved by the FTZ Board on August 2, 2012 (Board Order 1844, 77 FR 47816, August 10, 2012) as an ASF zone. The zone currently has a

service area that includes a portion of Miami-Dade County, Florida.

The applicant is now requesting authority to expand the service area of the zone to include all of Miami-Dade County, as described in the application. If approved, the grantee would be able to serve sites throughout the expanded service area based on companies' needs for FTZ designation. The application indicates that the proposed expanded service area is within the Miami U.S. Customs and Border Protection Port of Entry.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to evaluate and analyze the facts and information presented in the application and case record and to report findings and recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 30, 2023. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 12, 2023.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.* For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov.*

Dated: March 22, 2023.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2023–06347 Filed 3–27–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–837]

Carbon and Alloy Steel Wire Rod From Italy: Final Results of the Expedited First Sunset Review of the Countervailing Duty Order

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: As a result of this expedited sunset review, the U.S. Department of Commerce (Commerce) finds that revocation of the countervailing duty (CVD) order on carbon and alloy steel wire rod (wire rod) from Italy would be likely to lead to continuation or recurrence of countervailable subsidies at the levels as indicated in the ''Final Results of Sunset Review'' section of this notice.

DATES: Applicable March 28, 2023.

FOR FURTHER INFORMATION CONTACT: Scarlet K. Jaldin and James R. Hepburn, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–4275 and (202) 482–1882, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 21, 2018, Commerce published the CVD order on wire rod from Italy.[1] On December 1, 2022, Commerce published the notice of initiation of the first sunset review of the *Order,* pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[2] Commerce received a notice of intent to participate from Charter Steel, Commercial Metals Company, Liberty Steel USA, Nucor Corporation, and Optimus Steel LLC (collectively, domestic interested parties) within the deadline specified in 19 CFR 351.218(d)(1)(i).[3] The domestic interested parties claimed interested party status within the meaning of section 771(9)(C) of the Act and 19 CFR 351.102(b)(29)(v) as domestic producers of wire rod in the United States.

On January 3, 2023, Commerce received an adequate substantive response from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[4] Commerce did not receive a substantive response from either the Government of Italy or a respondent interested party to this proceeding. On January 25, 2023, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.[5] As a result, Commerce conducted an expedited (120-day) sunset review of the *Order,* pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B)(2) and (C)(2).

Scope of the Order

The products covered by the *Order* are carbon and alloy steel wire rod. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.[6]

Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of subsidization in the event of revocation of the *Order* and the countervailable subsidy rates likely to prevail if the *Order* were to be revoked, is provided in the Issues and Decision Memorandum. A list of the topics discussed in it in the Issues and Decision Memorandum is attached as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Final Results of Sunset Review

Pursuant to sections 751(c)(1) and 752(b) of the Act, Commerce determines that revocation of the *Order* would likely lead to the continuation or recurrence of countervailable subsidies at the following rates:

Producer/exporter	Subsidy rate (percent *ad valorem*)
Ferriere Nord S.p.A[7]	4.16
Ferriera Valsider S.p.A	44.18
All-Others	4.16

Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the

[1] *See Carbon and Alloy Steel Wire Rod from Italy and the Republic of Turkey: Amended Final Affirmative Countervailing Duty Determination for the Republic of Turkey and Countervailing Duty Orders for Italy and the Republic of Turkey,* 83 FR 23420 (May 21, 2018) (*Order*).

[2] *See Initiation of Five-Year (Sunset) Reviews,* 87 FR 73757 (December 1, 2022).

[3] *See* Domestic Interested Parties' Letter, ''Domestic Interested Parties' Notice of Intent To Participate,'' dated December 15, 2022.

[4] *See* Domestic Interested Parties' Letter, ''Domestic Interested Parties' Substantive Response,'' dated January 3, 2023.

[5] *See* Commerce's Letter, ''Sunset Reviews Initiated on December 1, 2022,'' dated January 25, 2023.

[6] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the Expedited First Sunset Review of the Countervailing Duty Order of Carbon and Alloy Steel Wire Rod from Italy,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[7] In the investigation, Commerce found the following companies to be cross-owned with the mandatory respondent, Ferriere Nord S.p.A.: Acciaierie di Verona S.p.A., FIN FER S.p.A., and SIAT S.p.A.. *See Countervailing Duty Investigation of Carbon and Alloy Steel Wire Rod from Italy: Final Affirmative Determination,* 83 FR 13242, 13243 (March 28, 2018).

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanctions.

Notification to Interested Parties

We are issuing and publishing these final results and this notice in accordance with sections 751(c), 752(b), and 777(i)(1) of the Act, and 19 CFR 351.218.

Dated: March 22, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2023–06408 Filed 3–27–23; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–053, C–570–054]

Antidumping and Countervailing Duty Orders on Certain Aluminum Foil From the People's Republic of China: Preliminary Affirmative Determinations of Circumvention With Respect to the Republic of Korea and the Kingdom of Thailand; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Notice; correction.

SUMMARY: On March 22, 2023, the U.S. Department of Commerce (Commerce) published a **Federal Register** notice of the preliminary results of circumvention inquiries pertaining to the antidumping duty (AD) and countervailing duty (CVD) orders on certain aluminum foil from the People's Republic of China (China). The notice incorrectly identified the AD China-wide and CVD all-others cash deposit rates.

DATES: Applicable March 22, 2023.

FOR FURTHER INFORMATION CONTACT: Mark Flessner at (202) 482–6312, AD/CVD Operations Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of March 22, 2023, FR Doc. 2023–05832,[1] on page 17179, in the ''Suspension of Liquidation'' section, make the following corrections:

- Revise the AD cash deposit rate from 106.09 percent to 95.15 percent,[2] and the CVD cash deposit rate from 18.56 percent to 13.28 percent.'' [3]

Background

On March 22, 2023, Commerce published in the **Federal Register** the preliminary affirmative determinations of the circumvention inquiries of the Republic of Korea and the Kingdom of Thailand.[4] In the ''Suspension of Liquidation'' section, Commerce incorrectly stated the AD and CVD cash deposit rates: ''If neither the exporter of the aluminum foil from Korea or Thailand, nor the Chinese exporter of the aluminum foil and/or sheet, has a company-specific cash deposit rate, the AD cash deposit rate will be the China-wide rate (106.09 percent), and the CVD cash deposit rate will be the ''all-others'' rate (18.56 percent).'' [5] This sentence is corrected as follows: ''If neither the exporter of the aluminum foil from Korea or Thailand, nor the Chinese exporter of the aluminum foil and/or sheet, has a company-specific cash deposit rate, the AD cash deposit rate will be the China-wide rate (95.15 percent),[6] and the CVD cash deposit rate will be the ''all-others'' rate (13.28 percent).'' [7]

Notification to Interested Parties

This notice serves as a correction and is published in accordance with sections 781(b) and 777(i) of the Tariff Act of 1930, as amended, and 19 CFR 351.226(g)(1).

Dated: March 22, 2023.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023–06363 Filed 3–27–23; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Antidumping and Countervailing Duty Orders on Certain Aluminum Foil from the People's Republic of China: Preliminary Affirmative Determinations of Circumvention with Respect to the Republic of Korea and the Kingdom of Thailand,* 88 FR 17177 (March 22, 2023) (*Preliminary Determinations*).

[2] The China-wide cash deposit rate of 95.15 percent reflects the dumping margin of 105.80 percent adjusted for subsidy offset. *See Certain Aluminum Foil from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order,* 83 FR 17362 (April 19, 2018) (*AD Amended Final Determination*). *See also Certain Aluminum Foil from the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 83 FR 9282 (March 5, 2018).

[3] *See Certain Aluminum Foil from the People's Republic of China: Notice of Court Decision Not in Harmony With the Amended Final Determination in the Countervailing Duty Investigation, and Notice of Amended Final Determination and Amended Countervailing Duty Order,* 85 FR 47730 (August 6, 2020) (*CVD Second Amended Final Determination*). *See also Certain Aluminum Foil from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 83 FR 17360 (April 19, 2018); and *Countervailing Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Final Affirmative Determination,* 83 FR 9274 (March 5, 2018).

[4] *See Preliminary Determinations.*

[5] *Id.,* 88 FR at 17179.

[6] The China-wide cash deposit rate of 95.15 percent reflects the dumping margin of 105.80 percent adjusted for subsidy offset. *See AD Amended Final Determination.*

[7] *See CVD Second Amended Final Determination.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Hydrographic Services Review Panel

AGENCY: National Ocean Service, National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Solicitation of nominations for NOAA's Hydrographic Services Review Panel Federal Advisory Committee.

SUMMARY: NOAA is seeking nominations for members to serve on the Hydrographic Services Review Panel (HSRP) Federal Advisory Committee. Such nominations are due by April 28, 2023.

DATES: Nominations for members to serve on the HSRP Federal Advisory Committee must be submitted by April 28, 2023, and will be kept on file to be used for future HSRP vacancies. NOAA anticipates there will be five vacancies starting on January 1, 2024, each with a four-year term. Current members who may be eligible for a second term in 2024 must reapply. HSRP maintains an active pool of candidates and advertises once a year in accordance with the Hydrographic Services Improvement Act (HSIA) requirement regarding membership solicitation.

ADDRESSES: Nominations will be accepted by email and should be sent to three, separate email addresses: *Hydroservices.panel@noaa.gov, Melanie.Colantuno@noaa.gov,* and *Lynne.Mersfelder@noaa.gov.* You will receive a confirmation response.

FOR FURTHER INFORMATION CONTACT: Lynne Mersfelder-Lewis, NOAA HSRP program manager, email *Lynne.Mersfelder@noaa.gov* or phone: 240–691–6106.

SUPPLEMENTARY INFORMATION: In accordance with the HSIA, as amended (33 U.S.C. 892 *et seq.*), the NOAA Administrator is required to solicit nominations for membership once each year for the HSRP (33 U.S.C. 892c). The HSRP, a Federal Advisory Committee, advises the NOAA Administrator on matters related to the responsibilities and authorities set forth in section 303 of the HSIA (33 U.S.C. 892a), and such other appropriate matters as the NOAA Administrator refers to the HSRP for review and advice. Those responsibilities and authorities include, but are not limited to: acquiring and disseminating hydrographic data and providing hydrographic services, as those terms are defined in the HSIA; promulgating standards for hydrographic data and services; ensuring comprehensive geographic coverage of hydrographic services; and testing, developing, and operating vessels, equipment, and technologies necessary to ensure safe navigation and maintain operational expertise in hydrographic data acquisition and hydrographic services. The HSRP advises the NOAA Administrator regarding ''charts and related information for the safe navigation of marine and air commerce, and to provide basic data for engineering and scientific purposes and for other commercial and industrial needs,'' as is set forth in the Coast and Geodetic Survey Act of 1947, as amended (33 U.S.C. 883a).

As the HSIA states, ''the voting members of the [HSRP] shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in 1 or more of the disciplines and fields relating to hydrographic data and hydrographic services, marine transportation, port administration, vessel pilotage, coastal and fishery management, and other disciplines as determined appropriate by the Administrator.'' (33 U.S.C. 892c.). The NOAA Administrator seeks individuals with expertise in hydrographic and marine navigation and technology, port administration, marine shipping or other intermodal transportation industries, cartography and geographic information systems, geodesy, physical oceanography, coastal resource management, including coastal preparedness and emergency response, and other related fields.

In accordance with applicable DOC guidance, NOAA seeks a balanced membership and members are selected on a standardized basis. Subject matter expertise, with subjects as specified in the HSIA, is the primary criteria considered in the evaluation process. Professional sector representation (academia, industry, research, scientific institution, state and local government, tribal interests, consultant, non-governmental organization, etc.), geographic expertise, experience working productively with committees and working groups, and leadership with navigation, observations, and positioning are other criteria that will be considered. The diverse membership of the HSRP ensures expertise reflecting the full breadth of the HSRP's responsibilities. Where possible, NOAA will also consider the ethnic, racial, and gender diversity of the United States. NOAA is an equal opportunity employer.

Nominees are required to submit four items, including a cover letter that responds to the five short response questions listed below. The entire nomination package should include all components, be submitted in Microsoft Word and PDF, and be no longer than eight pages. The four required items are—

1. A cover letter that responds to the Five Short Response Questions listed below and serves as a statement of interest to serve on the HSRP. Please be sure to highlight the nominee's specific area(s) of expertise relevant to the purpose of the HSRP from the list in this **Federal Register** document.

2. A short biography of 300–400 words and a photo.

3. A resume of no more than 2–3 pages.

4. The nominee's full work and home contact information including: full name, work title, institutional affiliation, work and home mailing addresses, email address(es), phone number(s), and fax number. Please note preferred email, phone number and mailing address.

Five Short Response Questions for the Cover Letter:

(1) List your area(s) of expertise, from the following list: Hydrographic surveying, tides, currents, geodetic and geospatial measurements, marine transportation, port administration, vessel pilotage, coastal or fishery management, and other oceanographic or marine science areas.

(2) List the geographic region(s) of the country with which you primarily associate your expertise from the following list: Northeast, Mid-Atlantic, Southeast, Gulf of Mexico, Pacific Northwest, California, Hawaii, Pacific Islands, Alaska, Arctic, Great Lakes, Caribbean, National, and/or International.

(3) Describe your leadership or professional experiences that you believe will contribute to the HSRP.

(4) Describe your familiarity and experience with NOAA navigation, observations and positioning data, products, and services.

(5) Generally, describe the breadth and scope of your knowledge of stakeholders, users, or other groups who interact with NOAA and whose views and input you believe you can share with the HSRP.

Information on NOAA and HSRP Member Responsibilities

Pursuant to the Coast and Geodetic Survey Act, as amended (33 U.S.C. 883a *et seq.*), NOAA is responsible for providing nautical charts and related information for safe navigation. NOAA collects and compiles hydrographic, tidal and current, geodetic, and a variety of other data in order to fulfill this responsibility. The HSRP provides advice on current and emerging oceanographic and marine science technologies relating to operations, research and development, and dissemination of data pertaining to:

(a) Hydrographic surveying;
(b) Shoreline surveying;
(c) Nautical charting;
(d) Water level measurements;
(e) Current measurements;
(f) Geodetic measurements;
(g) Geospatial measurements;
(h) Geomagnetic measurements; and
(i) Other oceanographic/marine related sciences.

The HSRP has fifteen voting members appointed by the NOAA Administrator in accordance with the HSIA (33 U.S.C. 892c). Two NOAA employees, the Directors of the National Geodetic Survey and the Center for Operational Oceanographic Products and Services, and the Co-Directors of the Center for Coastal and Ocean Mapping/Joint Hydrographic Center, serve as non-voting members. The Director, NOAA Office of Coast Survey, serves as the Designated Federal Officer (DFO) along with two Alternate DFOs.

Voting members are individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more disciplines relating to

hydrographic surveying, tides, currents, geodetic and geospatial measurements, marine transportation, port administration, vessel pilotage, coastal or fishery management, and other oceanographic or marine science areas as deemed appropriate by the Administrator. Full-time officers or employees of the United States may not be appointed as a voting member. Any voting member of the HSRP who is an applicant for, or beneficiary of (as determined by the NOAA Administrator) any assistance under 33 U.S.C. 892c shall disclose to the HSRP that relationship, and may not vote on any other matter pertaining to that assistance.

Voting members of the HSRP serve a four-year term, except that vacancy appointments are for the remainder of the unexpired term of the vacancy. Members serve at the discretion of the NOAA Administrator and are subject to Government ethics standards. Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve until his or her successor has taken office. The HSRP selects one voting member to serve as the Chair and another to serve as the Vice Chair. The Vice Chair acts as Chair in the absence or incapacity of the Chair but will not automatically become the Chair if the Chair resigns. Public meetings occur at least twice a year, and at the call of the Chair or upon the request of a majority of the voting members or of the NOAA Administrator. Voting members receive compensation at a rate established by the NOAA Administrator, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when engaged in performing duties for the HSRP during the public meeting. Members are reimbursed for actual and reasonable travel expenses incurred in performing such duties according to the Federal Travel Regulation.

Additional HSRP information and past HSRP public meeting summary reports, agendas, presentations, transcripts, webinars, and other information is available online at:

Membership: *https://www.nauticalcharts.noaa.gov/hsrp/panel.html.*

Recommendations: *https://www.nauticalcharts.noaa.gov/hsrp/recommendations.html.*

Public meeting materials: *https://www.nauticalcharts.noaa.gov/hsrp/meetings.html.*

Individuals Selected for HSRP Membership

Upon selection and agreement to serve on the HSRP, members become Special Government Employees (SGEs) of the United States Government. An SGE, as defined in 18 U.S.C. 202(a), is an officer or employee of an agency who is retained, designated, appointed, or employed to perform temporary duties, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, either on a full time or intermittent basis. After the selection process is complete, applicants selected to serve on the HSRP must complete the following actions before they can be appointed as an HSRP member:

(a) Security Clearance (online Background Security Check process and fingerprinting conducted through NOAA's Office of Security and Office of Human Capital Services); and

(b) Confidential Financial Disclosure Report—SGEs are required to file a Confidential Financial Disclosure Report to avoid involvement in a real or apparent conflict of interest. You may find information on the Confidential Financial Disclosure Report: *https://www.oge.gov/Web/oge.nsf/Resources/OGE+Form+450.*

Authority: 33 U.S.C. 892 *et seq.;* 33 U.S.C. 883a *et seq.*

Benjamin K. Evans,

Rear Admiral (lower half), Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2023–06343 Filed 3–27–23; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC868]

Marine Mammals; File No. 26663

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Alaska Whale Foundation, PO Box 1927, Petersburg, AK 99833 (Responsible Party: Fred Sharpe, Ph.D.), has applied in due form for a permit to conduct research on cetaceans.

DATES: Written, telefaxed, or email comments must be received on or before April 27, 2023.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 26663 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 26663 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard or Shasta McClenahan, Ph.D., (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a 5 year permit to study humpback whales (*Megaptera novaeangliae*) and other cetaceans in southeast Alaska. Research would be conducted using motorized vessels, hand-powered watercraft, unmanned aircraft systems, and underwater snorkelers. Humpback whales would be studied via photo-id, photogrammetry, behavioral observations, passive acoustic recordings, suction-cup tagging, and biological sampling (exhaled air, sloughed skin, fecal, and skin/blubber biopsy). The purpose of the research is to study humpback whale distribution, abundance trends, acoustic ecology, and health metrics and opportunistically study other cetacean species in the study area. Nine additional cetacean species, including endangered fin (*Balaenoptera physalus*), gray (*Eschrichtius robustus*), and sperm (*Physeter macrocephalus*) whales, may be opportunistically studied or unintentionally harassed. Harbor seals (*Phoca vitulina*) and Steller sea lions (*Eumetopias jubatus*) may also be unintentionally harassed during acoustic activities. See the application

for complete numbers of animals requested by species, life stage, and procedure.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 22, 2023.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2023–06394 Filed 3–27–23; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Recruitment of First Responder Network Authority Board Member

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The National Telecommunications and Information Administration (NTIA) issues this Notice to seek expressions of interest from individuals who would like to serve on the Board of the First Responder Network Authority (FirstNet Authority Board or Board). One of the 12 non-permanent members to the FirstNet Authority Board resigned prior to the end of his term. The Secretary of Commerce will appoint an individual to complete that Board member's term through September 2024.

DATES: To be considered for this Board appointment, expressions of interest must be electronically transmitted on or before April 27, 2023.

ADDRESSES: Applicants should submit expressions of interest as described below to: Michael Dame, Acting Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration, by email to *FirstNetBoardApplicant@ntia.gov.*

FOR FURTHER INFORMATION CONTACT: Michael Dame, Acting Associate Administrator, Office of Public Safety Communications, National Telecommunications and Information Administration; telephone: (202) 482–1181; email: *mdame@ntia.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The Middle Class Tax Relief and Job Creation Act of 2012 (Act) created the First Responder Network Authority (FirstNet Authority) as an independent authority within NTIA. The Act charged the FirstNet Authority with ensuring the building, deployment, and operation of a nationwide, interoperable public safety broadband network, based on a single, national network architecture.[1] The FirstNet Authority holds the single nationwide public safety license granted for wireless public safety broadband deployment. The FirstNet Authority Board is responsible for providing overall policy direction and oversight of FirstNet to ensure that the nationwide network continuously meets the needs of public safety.

II. Structure

The FirstNet Authority Board is composed of 15 voting members. The Act names the Secretary of Homeland Security, the Attorney General of the United States, and the Director of the Office of Management and Budget as permanent members of the FirstNet Authority Board. The Secretary of Commerce (Secretary) appoints the 12 non-permanent members of the FirstNet Authority Board.[2]

The Act requires each Board member to have experience or expertise in at least one of the following substantive areas: public safety, network, technical, and/or financial.[3] Additionally, the composition of the FirstNet Authority Board must satisfy the other requirements specified in the Act, including that: (i) at least three members have served as public safety professionals; (ii) at least three members represent the collective interests of states, localities, tribes, and territories; and (iii) its members reflect geographic and regional, as well as rural and urban, representation.[4]

An individual Board member may satisfy more than one of these requirements. The current non-permanent FirstNet Authority Board members are (noting expiration of term):

- Vacant, formerly filled by Stephen Benjamin, resigned (Term expires: September 2024)
- Vice Chair Richard Carrizzo, Fire Chief, Southern Platte Fire Protection District, MO (Term expires: September 2024)
- Brian Crawford, SVP/Chief Administrative Officer for Willis-Knighton Health System and retired Fire Chief and Municipal Government Executive (Term expires: September 2024)
- Alexandra Fernandez Navarro, Former Associate Member, Puerto Rico Public Service Regulatory Board (Term expires: September 2024)
- Kristin Graziano, Sheriff, Charleston County, SC (Term expires: September 2024)
- Billy Hewes, Mayor, Gulfport, MS (Term expires: September 2024)
- Peter Koutoujian, Sheriff, Middlesex County, MA (Term expires: September 2024)
- Warren Mickens, Retired technology executive (Term expires: September 2024)
- Sylvia Moir, Undersheriff, Marin County, CA and former Police Chief (Term expires: September 2024)
- Jocelyn Moore, Senior Managing Director, Corporate Affairs, Pretium (Term expires: September 2024)
- Paul Patrick, Division Director, Family Health and Preparedness, Utah Department of Health (Term expires: September 2024)
- Renee Gordon, Director of Emergency Communications, City of Alexandria, VA (Term expires: September 2025)

Any Board member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier.[5] Board members selected for a new term receive a three-year appointment.[6] Board members may not serve more than two consecutive full three-year terms.[7] More information about the FirstNet Authority Board is available at *www.firstnet.gov/about/Board.* Since this appointment is filling a mid-term vacancy, the newly appointed member will complete the existing term as a board member until September 2024.

III. Compensation and Status as Government Employees

FirstNet Authority Board members are appointed as government employees. FirstNet Authority Board members are compensated at the daily rate of basic

[1] 47 U.S.C. 1422(b).

[2] 47 U.S.C. 1424(b).

[3] 47 U.S.C. 1424(b)(2)(B).

[4] 47 U.S.C. 1424(b)(2)(A).

[5] 47 U.S.C. 1424(c)(2)(B).

[6] However, [a]ny member appointed to fill a vacancy occurring prior to the expiration of the term for which that member's predecessor was appointed shall be appointed for the remainder of the predecessor's term. *See* 47 U.S.C. 1424(c)(2)(C).

[7] 47 U.S.C. 1424(c)(2)(A)(ii).

pay for level IV of the Executive Schedule (approximately $183,500 per year) for each day worked on the FirstNet Authority Board.[8] Board members work intermittent schedules and may not work more than 130 days per year during their term. Each Board member must be a United States citizen, cannot be a registered lobbyist, and cannot be a registered agent of, employed by, or receive payments from, a foreign government.[9]

IV. Financial Disclosure and Conflicts of Interest

FirstNet Authority Board members must comply with certain federal conflict of interest statutes and ethics regulations, including some financial disclosure requirements. A FirstNet Authority Board member will generally be prohibited from participating on any particular FirstNet Authority matter that will have a direct and predictable effect on his or her personal financial interests or on the interests of the appointee's spouse, minor children, or non-federal employer.

V. Selection Process

At the direction of the Secretary, NTIA will conduct outreach to the public safety community, state and local organizations, and industry to solicit nominations for candidates to the Board who satisfy the statutory requirements for membership. In addition, the Secretary, through NTIA, will accept expressions of interest from any individual, or from any organization proposing a candidate who satisfies the statutory requirements for membership on the FirstNet Authority Board. To be considered for this appointment, expressions of interest must be electronically transmitted on or before April 27, 2023.

All parties submitting an expression of interest should submit the candidate's (i) full name, title, organization, address, telephone number, email address; (ii) current resume; (iii) brief bio; (iv) statement of qualifications that references how the candidate satisfies the Act's expertise, representational, and geographic requirements for FirstNet Authority Board membership, as described in this Notice; and (v) a statement describing why the candidate wants to serve on the FirstNet Authority Board, affirming their ability and availability to take a regular and active role in the Board's work.

[8] 47 U.S.C. 1424(g).

[9] *See* Revised Guidance on Appointment of Lobbyists to Federal Advisory Committees, Boards, and Commissions, Office of Management and Budget, 79 FR 47482 (Aug. 13, 2014).

The Secretary will select FirstNet Authority Board candidates based on the eligibility requirements in the Act and recommendations submitted by NTIA. NTIA will recommend candidates based on an assessment of qualifications as well as demonstrated ability to work in a collaborative way to achieve the goals and objectives of the FirstNet Authority as set forth in the Act. NTIA may consult with FirstNet Authority Board members or executives in making its recommendation. Board candidates will be vetted through the Department of Commerce and are subject to an appropriate background check for security clearance.

Josephine Arnold,

Senior Attorney-Advisor, National Telecommunications and Information Administration.

[FR Doc. 2023–06379 Filed 3–27–23; 8:45 am]

BILLING CODE 3510–WL–P

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meetings

TIME AND DATE: 8:00 a.m. EDT, Friday, March 24, 2023.

PLACE: Virtual meeting.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Matters relating to the Commission's retention of outside counsel. In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.cftc.gov/.*

CONTACT PERSON FOR MORE INFORMATION: Christopher Kirkpatrick, 202–418–5964.

Authority: 5 U.S.C. 552b.

Dated: March 23, 2023.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2023–06453 Filed 3–24–23; 11:15 am]

BILLING CODE 6351–01–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Information and Regulatory Affairs (OIRA), of the Office of Management and Budget (OMB), for review and comment. The ICR describes the nature of the information collection and its expected costs and burden.

DATES: Comments must be submitted on or before April 27, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be submitted within 30 days of this notice's publication to OIRA, at *https://www.reginfo.gov/public/do/PRAMain.* Please find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the website's search function. Comments can be entered electronically by clicking on the ''comment'' button next to the information collection on the ''OIRA Information Collections Under Review'' page, or the ''View ICR—Agency Submission'' page. A copy of the supporting statement for the collection of information discussed herein may be obtained by visiting *https://www.reginfo.gov/public/do/PRAMain.*

In addition to the submission of comments to *https://Reginfo.gov* as indicated above, a copy of all comments submitted to OIRA may also be submitted to the Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') by clicking on the ''Submit Comment'' box next to the descriptive entry for OMB Control No. 3038–0013, at *https://comments.cftc.gov/FederalRegister/PublicInfo.aspx.*

Or by either of the following methods:

- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments submitted to the Commission should include only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[1] The Commission reserves the right, but shall have no obligation, to review, pre-

[1] 17 CFR 145.9.

screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the ICR will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Steven A. Haidar, Assistant Chief Counsel, Division of Market Oversight, (202) 418–5611, email: *shaidar@cftc.gov;* or Grey Tanzi, Assistant Chief Counsel, Division of Market Oversight, (312) 596–0635, email: *gtanzi@cftc.gov.*

SUPPLEMENTARY INFORMATION:

Title: Part 150, Position Limits, (OMB Control No. 3038–0013). This is a request for extension of a currently approved information collection.

Abstract: Commodity Exchange Act (''CEA'') section 4a directs the Commission to establish limits on speculative positions, as the Commission determines to be necessary, to prevent the harms caused by excessive speculation. This Position Limits collection of information (OMB Control No. 3038–0013) includes collections of information required under both the Final Rule and the Aggregation Rule (as each Rule is defined below).

In 2021, the Commission issued a final rule on position limits that implemented CEA section 4a and established the Commission's new position limits regime found in part 150 of the Commission's Regulations (''Final Rule'').[2] The Final Rule, among other things, included: new and amended Federal spot-month limits for the 25 core referenced futures contracts; (2) amended Federal non-spot limits for the nine legacy agricultural contracts subject to existing Federal position limits; (3) amended rules governing exchange-set limit levels and grants of exemptions therefrom; (4) an amended process for requesting certain spread exemptions and non-enumerated bona fide hedge recognitions for purposes of Federal position limits directly from the Commission; (5) a new streamlined process for recognizing non-enumerated bona fide hedge positions from Federal limit requirements; and (6) amendments to part 19 of the Commission's Regulations and related provisions that eliminated certain reporting obligations that require traders to submit a Form 204 and Parts I and II of Form 304.

Separately, in 2016 the Commission issued a final rule amending Commission Regulation 150.4, which sets forth requirements regarding the aggregation of positions subject to federal position limits (the ''Aggregation Rule'').[3] Among other things, Regulation 150.4 includes standards for the aggregation of accounts and procedures for seeking an exemption from position aggregation requirements under the Commission's federal position limits.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.[4] On January 19, 2023, the Commission published in the **Federal Register** notice of the proposed extension of this information collection and provided 60 days for public comment on the proposed extension, 88 FR 3395 (''60-Day Notice''). The Commission did not receive any relevant comments on the 60-Day Notice.

Burden Statement: The Commission anticipates that there will continue to be approximately 776 respondents and the hourly burden will remain the same as provided in the 60-Day Notice. The respondent burden for this collection is estimated to be as follows:

Estimated number of respondents: 776.

Estimated average burden hours per respondent: 15.14 hours.

Estimated total annual burden hours for all respondents: 11,748 hours.

Frequency of Collection: As needed.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: March 22, 2023.

Robert Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2023–06308 Filed 3–27–23; 8:45 am]

BILLING CODE 6351–01–P

[2] *See* ''Position Limits for Derivatives,'' 86 FR 3236 (Jan. 24, 2021).

[3] *See* ''Aggregation of Positions,'' 81 FR 91454 (Dec. 16, 2016). The position aggregation requirements set forth in Regulation 150.4 are the subject of No-Action Letter 22–09 and have been the subject of similar no-action letters since the rule's effective date. As such, as of the date of this notice, market participants do not submit the reports set forth in Regulation 150.4. Accordingly, all collections of information and related burden estimates under Regulation 150.4 are hypothetical.

[4] 44 U.S.C. 3512, 5 CFR 1320.5(b)(2)(i) and 1320.8 (b)(3)(vi).

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2023–HQ–0007]

Proposed Collection; Comment Request

AGENCY: U.S. Army Corps of Engineers (USACE), Department of the Army, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

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

DATES: Consideration will be given to all comments received by May 30, 2023.

ADDRESSES: You may submit comments, identified by docket 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, 4800 Mark Center Drive, Mailbox #24, Suite 08D09, Alexandria, VA 22350–1700.

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

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to U.S. Army Engineer Research and Development Center (ERDC), 3909 Halls Ferry Road,

Vicksburg, MS 39180; ATTN: Dr. Robert P. Jones, or call 601–634–4098.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Stakeholder and Community Coastal Storm Hazard Surveys; OMB Control Number 0710–CCFR.

Needs and Uses: Information from the surveys described here is needed to address the research questions funded in the Compound Coastal Flooding Congressional Add; a $5 million joint effort between the U.S. Army Corps of Engineers—Engineer Research and Development Center (ERDC) and the University of Alabama. Research seeks to inform improved modeling of compound coastal storm events, including improved simulation of impacts to communities and of protective action-taking. The collaborative Broad Agency Agreement with the University of Alabama includes proposed tasks to identify effective flood risk communication tools which influence coastal residents' risk mitigation actions and to better understand key community stakeholder communication of hazards. Execution of these funded tasks requires the University of Alabama Principal Investigator and team to gather information through three community and stakeholder surveys. Findings from their analysis will inform coastal storm hazard modeling and risk communication for better outcomes from storm events.

Affected Public: Individuals or households.

Annual Burden Hours: 1,525.

Number of Respondents: 3,050.

Responses per Respondent: 1.

Annual Responses: 3,050.

Average Burden per Response: 30 minutes.

Frequency: Once.

The coastal storm hazard surveys will be distributed to stakeholders and members of the general public in Houston, Texas, Mobile, Alabama, and Savannah, Georgia. The stakeholder survey instrument aims to identify the perceptions and attitudes of local stakeholders in these at-risk areas toward coastal storm hazards, mitigation of those hazards, and the information dissemination to the public regarding those hazards. Three community survey instruments aim to identify the perceptions and use of information by the general public regarding coastal hazards, specifically hurricane and flood events, before, during, and after the Atlantic hurricane season. The data will be used for statistical tests to identify significant trends in the distinct topics addressed by each survey.

Dated: March 22, 2023.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2023–06331 Filed 3–27–23; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0013]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Presidential Cybersecurity Education Award

AGENCY: Office of Career, Technical, and Adult Education (OCTAE), 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 April 27, 2023.

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

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Corinne Sauri, 202–245–6412.

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

Title of Collection: Presidential Cybersecurity Education Award.

OMB Control Number: 1830–NEW.

Type of Review: A new ICR.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 80.

Total Estimated Number of Annual Burden Hours: 80.

Abstract: The Executive Order on America's Cybersecurity Workforce (Executive Order 13870), signed on May 2, 2019, included a directive for the Secretary of Education, in consultation with the DAPHSCT and the National Science Foundation, to develop and implement an annual Presidential Cybersecurity Education Award to be presented to one elementary and one secondary school educator per year who best instill skills, knowledge, and passion with respect to cybersecurity and cybersecurity-related subjects.

This information collection request supports this executive order.

Dated: March 22, 2023.

Juliana Pearson,

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

[FR Doc. 2023–06333 Filed 3–27–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2023–SCC–0006]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Visual Representations for Proportional Reasoning: Impacts of a Teacher Professional Development Program for Multilingual Learners and Other Students

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

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

DATES: Interested persons are invited to submit comments on or before April 27, 2023.

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

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Janelle Sands, (202) 245–6786.

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

Title of Collection: Visual Representations for Proportional Reasoning: Impacts of a Teacher Professional Development Program for Multilingual Learners and Other Students.

OMB Control Number: 1850–NEW.

Type of Review: New ICR.

Respondents/Affected Public: Individuals or Households; State, Local, and Tribal Governments; Federal Government.

Total Estimated Number of Annual Responses: 36,784.

Total Estimated Number of Annual Burden Hours: 11,281.

Abstract: This submission is a request for approval of data collection activities that will be used to support the Northeast and Islands Regional Educational Laboratory (REL) Visual Representations for Proportional Reasoning: Impacts of a Teacher Professional Development Program for Multilingual Learners and Other Students. The study is being funded by the Institute of Education Sciences (IES) U.S. Department of Education and is being implemented by Education Development Center (EDC) and its subcontractor, American Institutes for Research (AIR). This submission requests approval to recruit schools for the study and administer measures to teachers and students.

This study aims to contribute to the evidence base on professional development associated with improved student outcomes for multilingual learners (MLLs) in mathematics. The Visual Access to Mathematics Professional Development (VAM PD) leverages recent and rigorous evidence on the importance of visual representations (VRs) and integrates language and content to support MLLs in proportional reasoning. Proportional reasoning content is a major emphasis in grade 7 math content standards in most U.S. states and is fundamental to success in subsequent mathematics coursework. Prior research has demonstrated positive impacts of the Visual Access to Mathematics Professional Development (VAM PD) on teacher outcomes (DePiper, et al., 2021b, Louie et al., 2022, DePiper et al., 2019 & DePiper, et al., 2021a). This study will fill the gap in information about how VAM PD impacts student outcomes. In the current study, we will collect pre- and post-data from both teachers and students to examine what impact the VAM PD has on student learning. Teachers in participating schools will be assigned randomly to either a treatment or control group. Both groups will complete (1) a measure of mathematical content knowledge, (2) a measure of teacher ability to analyze student work, and (3) a brief survey/questionnaire about instructional practices in fall 2023 and again in spring 2024. Students taught by teachers in both conditions will complete (1) a measure of mathematical content knowledge, (2) three items related to VRs, and (3) a survey regarding attitudes toward mathematics. Data collected will be summarized and analyzed using multilevel modeling to understand the efficacy of the VAM PD on both teacher and student level outcomes.

Dated: March 23, 2023.

Juliana Pearson,

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

[FR Doc. 2023–06393 Filed 3–27–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; International Research and Studies Program—Research, Studies and Surveys; and Specialized Instructional Materials

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for fiscal year (FY) 2023 for the International Research and Studies (IRS) program, Assistance Listing Number 84.017A. This notice relates to the approved information collection under OMB control number 1840–0795.

DATES:

Applications Available: March 28, 2023.

Pre-Application Webinar: The Department will hold a pre-application meeting via webinar for prospective applicants. Detailed information regarding the webinar, including date and time, will be provided on the website for the IRS program at *https://www2.ed.gov/programs/iegpsirs/applicant.html.*

Deadline for Transmittal of Applications: May 12, 2023.

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

FOR FURTHER INFORMATION CONTACT: Dana Sapatoru, U.S. Department of Education, 400 Maryland Avenue SW, Room 5C108, Lyndon Baines Johnson (LBJ) Building, Washington, DC 20202. Telephone: (202) 987–1944. Email: *dana.sapatoru@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The IRS program provides grants to public and private agencies, organizations, institutions, and individuals, to conduct research, studies, or surveys, or to develop specialized instructional materials, to improve and strengthen instruction and enrollment in modern foreign languages and related area studies. Under 34 CFR 660.1, research and studies may include, but are not limited to—

(a) Studies and surveys to determine needs for increased or improved instruction in modern foreign languages, area studies, or other international fields, including the demand for foreign language, area studies, and other international specialists in government, education, and the private sector;

(b) Research on more effective methods of providing instruction and achieving competency in foreign languages, area studies, or other international fields;

(c) Research on applying performance tests and standards across all areas of foreign language instruction and classroom use;

(d) Developing and publishing specialized materials for use in foreign language, area studies, and other international fields or for training foreign language, area studies, and other international specialists;

(e) Studies and surveys to assess the use of graduates of programs supported under title VI of the Higher Education Act of 1965, as amended (HEA) by governmental, educational, and private-sector organizations and other studies assessing the outcomes and effectiveness of supported programs;

(f) Comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

(g) Evaluations of the extent to which programs assisted under title VI of the HEA that address national needs would not otherwise be offered;

(h) Studies and surveys of the use of technologies in foreign language, area studies, and international studies programs;

(i) Studies and evaluations of effective practices in the dissemination of international information, materials, research, teaching strategies, and testing techniques throughout the educational community, including elementary and secondary schools;

(j) Evaluations of the extent to which programs assisted under title VI of the HEA reflect diverse perspectives and a wide range of views and generate debate on world regions and international affairs;

(k) Systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of title VI, part A of the HEA; and

(l) Support for programs or activities to make data collected, analyzed, or disseminated under this part publicly available and easy to understand.

In this competition, applicants may request support for either a Research, Studies, or Surveys Project or a Specialized Instructional Materials Project. In section 15 of the SF 424 Application for Federal Assistance, applicants must clearly identify the type of IRS project for which funding is requested. Additional submission details are included in the application package.

Priorities: This notice contains one absolute priority and one competitive preference priority. In accordance with 34 CFR 75.105(b)(2)(ii), the absolute priority is from the program regulations at 34 CFR 660.34(a)(1) and 34 CFR 660.10(a), (b), (c), (f), (i), and (l). The competitive preference priority is from the Secretary's Supplemental Priorities and Definitions for Discretionary Grants Programs published in the **Federal Register** on December 10, 2021 (86 FR 70612) (Supplemental Priorities).

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

This priority is:

Research, Studies, or Survey Projects or Specialized Instructional Materials Projects.

Research, Studies, or Survey Projects or Specialized Instructional Materials Projects that contribute to the purposes of the International Education Program authorized by part A of title VI of the HEA, which must include one or more of the following allowable activities:

Research, Studies, or Survey Projects: (i) Studies and surveys to determine the need for increased or improved instruction in modern foreign languages and area studies and other international fields needed to provide full understanding of the places in which those languages are commonly used; (ii) research and studies on more effective methods of instruction and achieving competency in modern foreign languages, area studies, or other international fields or to evaluate competency in those foreign languages, area studies, or other international fields; (iii) studies and surveys to assess the use of graduates of programs supported under title VI of the HEA by governmental, educational, and private sector organizations, and other studies assessing the outcomes and effectiveness of supported programs; (iv) studies and surveys of the uses of technology in foreign language, area studies, and international studies programs; or (v) systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of title VI, part A of the HEA.

Specialized Instructional Materials Projects: Development and publication of specialized materials for use by students and teachers of modern foreign languages, area studies, and other international fields or for use in providing such instruction and evaluation or for training individuals to provide such instruction and evaluation.

Competitive Preference Priority: For FY 2023, and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i) we award an additional 5 points to an application that meets this priority.

This priority is:

Promoting Equity in Student Access to Educational Resources and Opportunities.

Under this priority, an applicant must demonstrate that the project will be implemented by or in partnership with one or more of the following entities:

(1) Community colleges (as defined in this notice).

(2) Historically Black Colleges and Universities (as defined in this notice).

(3) Tribal Colleges and Universities (as defined in this notice).

(4) Minority-serving institutions (as defined in this notice).

Definitions: The following definitions apply to this program and are from the Supplemental Priorities.

Community college means ''junior or community college'' as defined in section 312(f) of the Higher Education Act of 1965, as amended (HEA).

Historically Black colleges and universities means colleges and universities that meet the criteria set out in 34 CFR 608.2.

Minority-serving institution means an institution that is eligible to receive assistance under sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA.

Tribal College or University has the meaning ascribed it in section 316(b)(3) of the HEA.

Note: The institutions designated eligible under title III and title V of the HEA may be viewed at the following link: *https://www2.ed.gov/about/offices/list/ope/idues/eligibility.html.*

Program Authority: 20 U.S.C. 1125.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 655 and 660. (e) The Supplemental Priorities.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $1,619,540.

Research, Studies, or Survey Projects: $1,019,540.

Specialized Instructional Materials Projects: $600,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Range of Awards:

Research, Studies, or Survey Projects: $72,000–$102,000 for each budget period of 12 months.

Specialized Instructional Materials Projects: $43,000–$60,000 for each budget period of 12 months.

Estimated Average Size of Awards:

Research, Studies, or Survey Projects: $85,000 for each budget period of 12 months.

Specialized Instructional Materials Projects: $50,000 for each budget period of 12 months.

Estimated Number of Awards:

Research, Studies, or Survey Projects: 10.

Specialized Instructional Materials Projects: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Public and private agencies, organizations, institutions, and individuals.

2.a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

c. *Administrative Cost Limitation:* This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* Under 34 CFR 75.708(b) and (c) a grantee under this competition may award subgrants to directly carry out project activities described in its application to the following types of entities: local educational agencies, State educational agencies, institutions of higher education, nonprofit organizations, or individuals. The grantee may award subgrants to entities it has identified in an approved application or that it selects through a competition under procedures established by the grantee.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 7, 2022 (87 FR 75045) and available at *https://www.federalregister.gov/documents/2022/12/07/2022-26554/common-instructions-for-applicants-to-department-of-education-discretionary-grant-programs,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on December 27, 2021.

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the IRS Program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to post on our website the abstracts of all funded applications, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This program is [is not] subject to Executive Order 12372 and the regulations in 34 CFR part 79.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 25 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, Application for Federal Assistance cover sheet (SF 424); the Supplemental Information Form SF 424B; Part II, ED 524 (Summary Budget A) and the detailed budget justification (Summary Budget C); or Part IV, assurances, and certifications. The page limit also does not apply to the one-page abstract, the curriculum vitae, the bibliography, or the letters of support. However, the recommended page limit does apply to the entirety of the application narrative.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 655.31, 660.31, 660.32, and 660.33 and are as follows:

The total maximum score for the selection criteria and the competitive preference priority is 100 points for applications for Research, Studies, or Survey Projects and for Specialized Instructional Materials Projects, respectively.

Applications for Research, Studies, or Survey Projects will be evaluated using the criteria in 34 CFR 655.31 and 660.32. Applications for Specialized Instructional Materials Projects will be evaluated using the selection criteria in 34 CFR 655.31 and 660.33.

The Secretary evaluates all applications for a project under this program on the basis of the following criteria:

(a) *Plan of operation* (up to 10 points).

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that ensures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, and handicapped persons.

(b) *Quality of key personnel* (up to 10 points).

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project. In the case of faculty, the qualifications of the faculty and the degree to which that faculty is directly involved in the actual teaching and supervision of students;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as members of racial or ethnic minority groups, women, handicapped persons, and the elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness* (up to 5 points).

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan* (up to 10 points).

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources* (up to 5 points).

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) Other than library, facilities that the applicant plans to use are adequate (language laboratory, museums, etc.); and

(ii) The equipment and supplies that the applicant plans to use are adequate.

In addition to the criteria above, under 34 CFR 660.32, the Secretary evaluates applications for Research, Studies, or Survey Projects on the basis of the following criteria:

(a) *Need for the project* (up to 10 points). The Secretary reviews each application for information that shows—

(1) A need for the proposed project in the field of study on which the project focuses; and

(2) That the proposed project will provide information about the present and future needs of the United States for study in foreign language and other international fields.

(b) *Usefulness of expected results* (up to 10 points). The Secretary reviews each application for information that shows the extent to which the results of the proposed project are likely to be used by other research projects or programs with similar objectives.

(c) *Development of new knowledge* (up to 10 points). The Secretary reviews each application for information that shows the extent to which the proposed project is likely to develop new knowledge that will contribute to the purposes of the International Education Program authorized by part A of title VI of the HEA.

(d) *Formulation of problems and knowledge of related research* (up to 10 points). The Secretary reviews each application for information that shows that problems, questions, or hypotheses to be dealt with by the applicant—

(1) Are well formulated; and

(2) Reflect adequate knowledge of related research.

(e) *Specificity of statement of procedures* (up to 5 points). The Secretary reviews each application for the specificity and completeness of the statement of procedures to be followed, including a discussion of such components as sampling techniques, controls, data to be gathered, and statistical and other analyses to be undertaken.

(f) *Adequacy of methodology and scope of project* (up to 10 points). The Secretary reviews each application for information that shows—

(1) The adequacy of the proposed teaching, testing, and research methodology; and

(2) The size, scope, and duration of the proposed project.

In addition to the criteria above, under 34 CFR 660.33, the Secretary evaluates applications for Specialized Instructional Materials Projects on the basis of the following criteria:

(a) *Need for the project* (up to 10 points). The Secretary reviews each application for information that shows—

(1) The proposed materials are needed in the educational field of study on which the project focuses; and

(2) The language or languages, the area, region, or country, or the issues or studies for which the materials are to be developed, are of sufficient priority and significance to the national interest to warrant financial support by the Federal Government.

(b) *Potential for the use of materials in other programs* (up to 10 points). The Secretary reviews each application for

information that shows the extent to which the proposed materials may be used elsewhere in the United States.

(c) *Account of related materials* (up to 5 points). The Secretary reviews each application for information that shows that—

(1) All existing related or similar materials have been accounted for and the critical commentary on their adequacy is appropriate and accurate; and

(2) The proposed materials will not duplicate any existing adequate materials.

(d) *Likelihood of achieving results* (up to 10 points). The Secretary reviews each application for information that shows that the outlined methods and procedures for preparing the materials are practicable and can be expected to produce the anticipated results.

(e) *Expected contribution to other programs* (up to 10 points). The Secretary reviews each application for information that shows the extent to which the proposed work may contribute significantly to strengthening, expanding, or improving programs of foreign language studies, area studies, or international studies in the United States.

(f) *Description of final form of materials* (up to 5 points). The Secretary reviews each application for information that shows a high degree of specificity in the description of the contents and final form of the proposed materials.

(g) *Provisions for pretesting and revision* (up to 5 points). The Secretary reviews each application for information that shows that adequate provision has been made for—

(1) Pretesting the proposed materials; and

(2) If necessary, revising the proposed materials before publication.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this program [competition] the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with:

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

Performance reports for the IRS program must be submitted electronically using the International Resource Information System (IRIS), the web-based reporting system for the International and Foreign Language Education office. For information about the system and to view the reporting instructions, please go to *http://iris.ed.gov/iris/pdfs/IRS.pdf.*

5. *Performance Measures:* The following performance measures for this program have been established for the purpose of Department reporting under 34 CFR 75.110.

a. The percentage of IRS projects that are focused on improving or strengthening K–16 instruction in less commonly taught languages, area studies, or other international fields.

b. The percentage of IRS projects that are focused on evaluation of the outcomes and effectiveness of title VI programs in addressing national needs.

c. The percentage of IRS projects that result in information from IRS studies, surveys, or research on language, area studies, and international studies being made available and accessible to the public.

d. The cost per IRS project that is focused on improving or strengthening K–16 instruction in modern foreign languages, area studies, and other international fields.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Nasser H. Paydar,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2023–06341 Filed 3–27–23; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10489–020]

City of River Falls Municipal Utilities; Notice of Waiver Period for Water Quality Certification Application

On April 26, 2022, the City of River Falls Municipal Utilities submitted to the Federal Energy Regulatory Commission (Commission) a copy of its application for a Clean Water Act section 401(a)(1) water quality certification filed with the Wisconsin Department of Natural Resources (Wisconsin DNR), in conjunction with the above captioned project. Pursuant to 40 CFR 121.6 and section 5.23(b) of the Commission's regulations,[1] we hereby notify Wisconsin DNR of the following:

Date of Receipt of the Certification Request: April 28, 2022.[2]

Reasonable Period of Time to Act on the Certification Request: One year (April 28, 2023).

If Wisconsin DNR fails or refuses to act on the water quality certification request on or before the above date, then the agency certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: March 21, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06365 Filed 3–27–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP23–94–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on March 14, 2023, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 State Route 56, Owensboro, Kentucky 42301, filed a prior notice request for authorization, in accordance with 18 CFR 157.205, 157.208, and 157.213 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act and Southern Star's blanket certificate issued in Docket No. CP82–479–000, to drill a new horizontal

[1] 18 CFR [4.34(b)(5)/5.23(b)/153.4/157.22].

[2] The City of River Falls Municipal Utilities filed proof of the certification request on April 29, 2022.

well and install a lateral pipeline to connect the new well to existing facilities at Southern Star's Webb Storage Field in Grant County, Oklahoma (Webb Storage Field Project or Project).

Southern Star states that the Webb Storage Field Project is designed to supplement existing deliverability and improve overall efficiency, reduce operating costs, and serve as an alternative to the installation of new dewatering facilities on existing storage gathering laterals. Southern Star further states that the Project will not require any changes to working or cushion gas volumes, reservoir pressure, reservoir and buffer boundaries, or the certificated capacity of the field. Specifically, Southern Star proposes to drill the new horizontal well approximately 110 feet from existing line VM–002 and to construct a 6-inch-diameter lateral (Line VM–066) connecting the well to Line VM–002. Additional pig launcher/receiver valves and metering, communications, and power facilities would be constructed at the well head and enclosed with fencing.

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://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application should be directed to Cindy Thompson, Director, Regulatory, Compliance & Information Governance, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301, by phone at (270) 852–4655 or by email to *cindy.thompson@southernstar.com.*

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify Federal and State agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on May 20, 2023. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[2] any person [3] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[4] and must be submitted by the protest deadline, which is May 20, 2023. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [5] and the regulations under the NGA [6] by the intervention deadline for the project, which is May 20, 2023. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before May 20, 2023. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

[1] 18 CFR (Code of Federal Regulations) 157.9.

[2] 18 CFR 157.205.

[3] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[4] 18 CFR 157.205(e).

[5] 18 CFR 385.214.

[6] 18 CFR 157.10.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP23–94–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [7]

(2) You can file a paper copy of your submission by mailing it to the address below. Your submission must reference the Project docket number CP23–94–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: Cindy Thompson, Director, Regulatory, Compliance & Information Governance, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301, by phone at (270) 852–4655 or by email to *cindy.thompson@southernstar.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: March 21, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06367 Filed 3–27–23; 8:45 am]

BILLING CODE 6717–01–P

[7] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2354–168]

Georgia Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Temporary Variance from Recreation Plan.

b. *Project No:* 2354–168.

c. *Date Filed:* March 3, 2023.

d. *Applicant:* Georgia Power Company.

e. *Name of Project:* North Georgia Hydroelectric Project.

f. *Location:* Nacoochee Park located just below the Nacoochee dam in Rabun County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Joseph Charles, 241 Ralph McGill Blvd. NE, BIN 10151, Atlanta, GA 30308; (404)506–2337; *jcharles@southernco.com.*

i. *FERC Contact:* Mark Carter, (678) 245–3083, *mark.carter@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* April 19, 2023.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–2354–168. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Request:* The licensee requests a variance from Article 418 (Recreation Plan) to close Nacoochee Park beginning August 1, 2023, for a period of up to two years, to support its hydro modernization efforts at the Nacoochee dam and powerhouse. Specifically, the licensee plans to stage equipment and store materials needed for the modernization work at Nacoochee Park and close the park to public access for public safety and project security reasons.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the

appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: March 21, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06366 Filed 3–27–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL23–48–000.

Applicants: Ponderosa Power, LLC v. *North Western Corporation.*

Description: Complaint of Ponderosa Power, LLC v. *North Western Corporation.*

Filed Date: 3/20/23.

Accession Number: 20230320–5128.

Comment Date: 5 p.m. ET 4/10/23.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER21–378–003.

Applicants: Mississippi Power Company.

Description: Compliance filing: Gulf States TFA Order No. 864 Supplemental Further Compliance Filing to be effective 1/27/2020.

Filed Date: 3/21/23.

Accession Number: 20230321–5113.

Comment Date: 5 p.m. ET 4/11/23.

Docket Numbers: ER22–2462–002; EL22–27–001.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company, Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: Southern Companies submits a Compliance Filing with respect to a revised version of its Formula Rate Protocols as directed in January 19, 2023 Commission Order.

Filed Date: 3/20/23.

Accession Number: 20230320–5203.

Comment Date: 5 p.m. ET 4/10/23.

Docket Numbers: ER23–1427–000.

Applicants: American Electric Power Service Corporation, Ohio Power Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: American Electric Power Service Corporation submits tariff filing per 35.13(a)(2)(iii: AEP submits one Facilities Agreements re: ILDSA, SA No. 1336 to be effective 5/21/2023.

Filed Date: 3/21/23.

Accession Number: 20230321–5014.

Comment Date: 5 p.m. ET 4/11/23.

Docket Numbers: ER23–1428–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original ISA, Service Agreement No. 6827; Queue No. AE1–108 to be effective 2/21/2023.

Filed Date: 3/21/23.

Accession Number: 20230321–5016.

Comment Date: 5 p.m. ET 4/11/23.

Docket Numbers: ER23–1429–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2023–03–21_SA 4015 NSP-Mayhew Creek Solar FSA (J1445) to be effective 5/21/2023.

Filed Date: 3/21/23.

Accession Number: 20230321–5020.

Comment Date: 5 p.m. ET 4/11/23.

Docket Numbers: ER23–1430–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: Revisions to Attachment AE to Modify the Regulation Mileage Compensation Design to be effective 12/31/9998.

Filed Date: 3/21/23.

Accession Number: 20230321–5027.

Comment Date: 5 p.m. ET 4/11/23.

Docket Numbers: ER23–1431–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to OATT and OA RE Market Suspension Rules to be effective 6/1/2023.

Filed Date: 3/21/23.

Accession Number: 20230321–5031.

Comment Date: 5 p.m. ET 4/11/23.

Docket Numbers: ER23–1432–000.

Applicants: Southern California Edison Company.

Description: Tariff Amendment: Cancel High Desert Power Project IFA (TOT005_SA No. 11) to be effective 5/21/2023.

Filed Date: 3/21/23.

Accession Number: 20230321–5044.

Comment Date: 5 p.m. ET 4/11/23.

Docket Numbers: ER23–1433–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Constellation FKA Exelon NITSA (ORDA) SA 943 Rev 5 to be effective 3/1/2023.

Filed Date: 3/21/23.

Accession Number: 20230321–5049.

Comment Date: 5 p.m. ET 4/11/23.

Docket Numbers: ER23–1434–000.

Applicants: Sugar Maple Wind, LLC.

Description: Baseline eTariff Filing: Shared Facilities Agreement Between Big Savage, LLC and Sugar Maple Wind, LLC to be effective 5/21/2023.

Filed Date: 3/21/23.

Accession Number: 20230321–5096.

Comment Date: 5 p.m. ET 4/11/23.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: March 21, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06368 Filed 3–27–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF23–4–000]

Western Area Power Administration; Notice of Filing

Take notice that on March 17, 2023, Western Area Power Administration submits tariff filing: CRSP_OLM_WAPA205–20230316 to be effective 5/1/2023.

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. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

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.

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://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on April 17, 2023.

Dated: March 22, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06359 Filed 3–27–23; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Staff Attendance at North American Electric Reliability Corporation Standard Drafting Team Meeting

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission and/or Commission staff may attend the following meeting:

North American Electric Reliability Corporation Project 2021–07 Extreme Cold Weather Grid Operations, Preparedness, and Coordination Standard Drafting Team Meeting; March 28, 2023 (1:00 p.m.–3:00 p.m. Eastern Time).

Further information regarding these meetings may be found at: *http://www.nerc.com/Pages/Calendar.aspx.*

The discussions at the meetings, which are open to the public, may address matters at issue in the following Commission proceeding:

Docket No. RD23–1–000 Extreme Cold Weather Reliability Standards EOP–011–3 and EOP–012–1

For further information, please contact Chanel Chasanov, 202–502–8569, or *chanel.chasanov@ferc.gov.*

Dated: March 22, 2023.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2023–06360 Filed 3–27–23; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OLEM–2018–0392, FRL–10847–01–OMS]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Requirements and Exemptions for Specific RCRA Wastes (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) has submitted an information collection request (ICR), Requirements and Exemptions for Specific RCRA Wastes (EPA ICR Number 1597.14, OMB Control Number 2050–0145) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. This is a proposed extension of the ICR, which is currently approved through March 31, 2023. Public comments were previously requested via the **Federal Register** on July 15, 2022 during a 60-day comment period. This notice allows for an additional 30 days for public comments.

DATES: Comments may be submitted on or before April 27, 2023.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OLEM–2018–0392 to EPA online using *www.regulations.gov* (our preferred method or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460. EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

Submit written comments and recommendations to OMB for the proposed information collection within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Peggy Vyas, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number: 202–566–0453; *vyas.peggy@epa.gov.*

SUPPLEMENTARY INFORMATION: This is a proposed extension of the ICR, which is currently approved through March 31, 2023. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Public comments were previously requested via the **Federal Register** on July 15, 2022 during a 60-day comment period (87 FR 42462). This notice allows for an additional 30 days for public comments. Supporting documents,

which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: In 1995, EPA promulgated regulations at 40 CFR part 273 that govern the collection and management of widely generated hazardous wastes known as ''Universal Wastes''. Universal Wastes are generated in a variety of non-industrial settings and are present in non-hazardous waste management systems. Examples of Universal Wastes include certain batteries, pesticides, mercury-containing lamps, and thermostats. The part 273 regulations are designed to ensure facilities collect these wastes and properly manage them in an appropriate hazardous waste management system. EPA needs to collect notifications of Universal Waste management to obtain general information on these handlers and to facilitate enforcement of the part 273 regulations. EPA promulgated labeling and marking requirements and accumulation time limits to ensure that Universal Waste is being accumulated responsibly. EPA needs to collect information on illegal Universal Waste shipments to enforce compliance with applicable regulations. Finally, EPA requires tracking of Universal Waste shipments to help ensure that Universal Waste is being properly treated, recycled, or disposed.

In 2001, EPA promulgated regulations in 40 CFR part 266 that provide increased flexibility to facilities managing wastes commonly known as ''Mixed Waste.'' Mixed Wastes are low-level mixed waste (LLMW) and naturally occurring and/or accelerator-produced radioactive material (NARM) containing hazardous waste. These wastes are also regulated by the Atomic Energy Act. As long as specified eligibility criteria and conditions are met, LLMW and NARM are exempt from the definition of hazardous waste as defined in part 261. Although these wastes are exempt from RCRA manifest, transportation, and disposal requirements, facilities must still comply with the manifest, transportation, and disposal requirements under the NRC (or NRC-Agreement State) regulations. Section 266.345(a) requires that generators or treaters notify EPA or the Authorized State that they are claiming the Transportation and Disposal Conditional Exemption prior to the initial shipment of a waste to a LLRW disposal facility.

In 1992, EPA finalized management standards for used oils destined for recycling. The Agency codified the used oil management standards at 40 CFR part 279. The regulations at 40 CFR part 279 establish, among other things, streamlined procedures for notification, testing, labeling, and recordkeeping. They also establish a flexible self-implementing approach for tracking off-site shipments that allow used oil handlers to use standard business practices (*e.g.,* invoices, bill of lading). In addition, part 279 sets standards for the prevention and cleanup of releases to the environment during storage and transit. EPA believes these requirements will minimize potential mismanagement of used oils, while not discouraging recycling. Used oil transporters must comply with all applicable packaging, labeling, and placarding requirements of 49 CFR parts 173, 178, and 179. In addition, used oil transporters must report discharges of used oil according to existing 49 *CFR* part 171 and 33 *CFR* part 153 requirements.

Form Numbers: None.

Respondents/affected entities: Private sector and State, local, or Tribal governments.

Respondent's obligation to respond: Mandatory (40 CFR part 273), required to obtain or retain a benefit (40 CFR parts 266 and 279).

Estimated number of respondents: 27,127 (total).

Frequency of response: On occasion.

Total estimated burden: 530,478 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $56,792,139 (per year), which includes $950 in annualized capital and $10,013,038 in annualized operation & maintenance costs.

Changes in the Estimates: There is a decrease in the burden of 264,872 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is a result of a significant downturn in the number of Universal Waste handlers (down to 25,343 from 131,898), likely due in part to the effects of the COVID pandemic.

Courtney Kerwin,

Director, Regulatory Support Division.

[FR Doc. 2023–06392 Filed 3–27–23; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2023–0182; FRL–10800–01–R9]

Adequacy Status of Motor Vehicle Emissions Budgets in 2008 8-Hour Ozone Extreme Area and Reasonable Further Progress Plan for Coachella Valley; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy.

SUMMARY: The Environmental Protection Agency (EPA) is notifying the public that we have found motor vehicle emissions budgets (''budgets'') for the Coachella Valley adequate for transportation conformity purposes. Specifically, our finding relates to budgets in the ''Request to Reclassify Coachella Valley for the 2008 8-hour Ozone Standard and the Updated Motor Vehicle Emission Budgets'' (''Coachella Valley Extreme RFP Plan''), submitted to the EPA for inclusion in the California state implementation plan (SIP) by the California Air Resources Board (CARB) on December 7, 2022. Upon the effective date of this notice of adequacy, the Southern California Association of Governments (SCAG) and the U.S. Department of Transportation must use these budgets in future transportation conformity analyses.

DATES: This finding is effective April 12, 2023.

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Planning Section (ARD–2–1), Air and Radiation Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; (775) 434–8176 or *oconnor.karina@epa.gov.*

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

This notice is simply an announcement of a finding that we have already made. By letter dated March 17, 2023, EPA Region IX notified CARB that the budgets in the Coachella Valley Plan for the reasonable further progress (RFP) years of 2023, 2026, 2029, and 2031 are adequate for transportation conformity purposes.[1] The finding is available at the EPA's conformity website.[2]

We announced the availability of the Coachella Valley Extreme RFP Plan and related RFP motor vehicle emissions budgets on the EPA's transportation

[1] Letter dated March17, 2023, from Elizabeth Adams, Director, Air and Radiation Division, EPA Region IX, to Steven S. Cliff, Executive Officer, CARB.

[2] *https://www.epa.gov/state-and-local-transportation/conformity-adequacy-review-region-9.*

conformity website on December 21, 2022 and requested comments by January 20, 2023. We received no comments in response to the adequacy review posting. The motor vehicle emissions budgets that we have found adequate are provided in the following table:

ADEQUATE MOTOR VEHICLE EMISSIONS BUDGETS FOR THE COACHELLA VALLEY FOR THE 2008 8-HOUR OZONE STANDARD

[tpd]

Year	Ozone precursor	
	VOC	NO_X
2023	2.7	6.0
2026	2.5	5.8
2029	2.3	5.8
2031	2.2	5.7

Transportation conformity is required by Clean Air Act section 176(c). The EPA's conformity rule requires that transportation plans, transportation improvement programs, and transportation projects conform to a state's SIP and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria we use to determine whether a SIP's motor vehicle emissions budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4), promulgated on August 15, 1997.[3] We further described our process for determining the adequacy of submitted SIP budgets in our final rule dated July 1, 2004,[4] and we used the information in these resources in making our adequacy determination. Please note that an adequacy review is separate from the EPA's completeness review and does not prejudge the EPA's ultimate action on the SIP submittal. Even if we find a budget adequate, the SIP submittal could later be disapproved. Pursuant to 40 CFR 93.104(e), SCAG and the U.S. Department of Transportation will need to demonstrate conformity to the new budgets within two years of the effective date of this notice.[5] For demonstrating conformity to the new budgets, the on-road motor vehicle emissions from implementation of the transportation plan or program for the area should be projected consistent with the budgets, *i.e.,* by taking the emissions results derived from CARB's EMFAC model (short for EMission FACtor) and then rounding the emissions up to the nearest tenth of a ton per day.

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

Dated: March 22, 2023.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2023–06344 Filed 3–27–23; 8:45 am]

BILLING CODE 6560–50–P

[3] 62 FR 43780, 43781–43783.

[4] 69 FR 40004, 40038–40047.

[5] See 73 FR 4420 (January 24, 2008).

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Financial Statements for Holding Companies (FR Y–9 Reports; OMB No. 7100–0128).

DATES: Comments must be submitted on or before May 30, 2023.

ADDRESSES: You may submit comments, identified by FR Y–9 reports, by any of the following methods:

- *Agency Website: https://www.federalreserve.gov/.* Follow the instructions for submitting comments at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx.*
- *Email: regs.comments@federalreserve.gov.* Include the OMB number or FR number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Federal Reserve Board of Governors, Attn: Ann E. Misback, Secretary of the Board, Mailstop M–4775, 2001 C St. NW, Washington, DC 20551.

All public comments are available from the Board's website at *https://www.federalreserve.gov/apps/foia/proposedregs.aspx* as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any confidential business information, identifying information, or contact information. Public comments may also be viewed electronically or in paper in Room M–4365A, 2001 C St. NW, Washington, DC 20551, between 9 a.m. and 5 p.m. on weekdays, except for Federal holidays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452–3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (OMB) Desk Officer for the Federal Reserve Board, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, *nuha.elmaghrabi@frb.gov,* (202) 452–3884.

SUPPLEMENTARY INFORMATION: On June 15, 1984, OMB delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collections of information conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

During the comment period for this proposal, a copy of the proposed PRA OMB submission, including the draft reporting form and instructions, supporting statement (which contains more detail about the information collection and burden estimates than this notice), and other documentation, will be made available on the Board's public website at *https://www.federalreserve.gov/apps/reportingforms/home/review* or may be requested from the agency clearance officer, whose name appears above. Final versions of these documents will be made available at *https://www.reginfo.gov/public/do/PRAMain,* if approved.

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper

performance of the Board's functions, including whether the information has practical utility;

b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected;

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal Under OMB Delegated Authority To Extend for Three Years, With Revision, the Following Information Collection

Collection title: Financial Statements for Holding Companies.

Collection identifier: FR Y–9 reports.

OMB control number: 7100–0128.

General description of collection: The Board requires bank holding companies (BHCs), most savings and loan holding companies (SLHCs), securities holding companies, and U.S. intermediate holding companies (IHCs) (collectively, HCs) to provide standardized financial statements through one or more of the FR Y–9 reports. The information collected on the FR Y–9 reports is necessary for the Board to identify emerging financial risks and monitor the safety and soundness of HC operations.

The FR Y–9C consists of standardized financial statements for HCs similar to the Call Reports filed by commercial banks. The FR Y–9C collects consolidated data and is filed quarterly by top-tier HCs with total consolidated assets of $3 billion or more.

The FR Y–9LP, which collects parent company only financial data, must be submitted quarterly by each HC that files the FR Y–9C, as well as by each of its subsidiary HCs. The report consists of standardized financial statements, including the following schedules: Income Statement, Cash Flow Statement, Balance Sheet, Investments in Subsidiaries and Associated Companies, Memoranda, and Notes to the Parent Company Only Financial Statements.

The FR Y–9SP is a parent company only financial statement filed semiannually by HCs with total consolidated assets of less than $3 billion. In a banking organization with total consolidated assets of less than $3 billion that has tiered HCs, each HC in the organization must submit, or have the top-tier HC submit on its behalf, a separate FR Y–9SP. This report collects basic balance sheet and income data for the parent company, as well as data on its intangible assets and intercompany transactions.

The FR Y–9ES is filed annually by each employee stock ownership plan (ESOP) that is also an HC. The report collects financial data on the ESOP's benefit plan activities. The FR Y–9ES consists of four schedules: Statement of Changes in Net Assets Available for Benefits, Statement of Net Assets Available for Benefits, Memoranda, and Notes to the Financial Statements.

The instructions to each of the FR Y–9C, FR Y–9LP, FR Y–9SP, and FR Y–9ES state that respondent HCs should retain workpapers and other records used in the preparation of the reports for a period of three years following submission. In addition, HCs must maintain in their files a manually signed and attested printout of the data submitted under each form for a period of three years.

The FR Y–9CS is a voluntary, free-form supplemental report that the Board may utilize to collect critical additional data deemed to be needed from HCs in an expedited manner. The FR Y–9CS data collections are used to assess and monitor emerging issues related to HCs, and the report is intended to supplement the other FR Y–9 reports. The data requested by the FR Y–9CS would depend on the Board's data needs in any given situation. For example, changes made by the Financial Accounting Standards Board may introduce into generally accepted accounting principles new data items that are not currently collected by the other FR Y–9 reports. The Board could use the FR Y–9CS report to collect these data until the items are implemented into the other FR Y–9 reports.

Proposed revisions: The Board proposes to revise the Consolidated Financial Statements for Holding Companies (FR Y–9C) to eliminate and consolidate certain items from the reporting forms and instructions for burden-reduction purposes and to correspond with proposed revisions to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051) related to a statutorily mandated review. Additionally, the proposal would seek public comment on previously made clarifications to FR Y–9C reporting instructions related to reporting securitizations conducted by Federal Home Loan Mortgage Corporation (FHLMC, also known as Freddie Mac). All of the proposed changes to the FR Y–9C would take effect as of the June 30, 2023, report date. There are no proposed revisions at this time for the FR Y–9LP, FR Y–9SP, FR Y–9ES, or FR Y–9CS.

Frequency: Quarterly, semiannual, annual, and as needed.

Respondents: HCs.

Total estimated number of respondents:

Reporting

FR Y–9C (non-advanced approaches holding companies with less than $5 billion in total assets): 107; FR Y–9C (non-advanced approaches holding companies with $5 billion or more in total assets): 236; FR Y–9C (advanced approaches holding companies): 9; FR Y–9LP: 411; FR Y–9SP: 3,596; FR Y–9ES: 73; FR Y–9CS: 236.

Recordkeeping

FR Y–9C: 352; FR Y–9LP: 411; FR Y–9SP: 3,596; FR Y–9ES: 73; FR Y–9CS: 236.

Estimated average hours per response:

Reporting

FR Y–9C (non-advanced approaches holding companies with less than $5 billion in total assets): 35.34; FR Y–9C (non-advanced approaches holding companies with $5 billion or more in total assets): 44.54; FR Y–9C (advanced approaches holding companies): 49.76; FR Y–9LP: 5.27; FR Y–9SP: 5.45; FR Y–9ES: 0.50; FR Y–9CS: 0.50.

Recordkeeping

FR Y–9C: 1; FR Y–9LP: 1; FR Y–9SP: 0.50; FR Y–9ES: 0.50; FR Y–9CS: 0.50.

Total estimated change in burden: (563).

Total estimated annual burden hours: 114,489.[1]

Board of Governors of the Federal Reserve System, March 23, 2023.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–06400 Filed 3–27–23; 8:45 am]

BILLING CODE 6210–01–P

[1] More detailed information regarding this collection, including more detailed burden estimates, can be found in the OMB Supporting Statement posted at *https://www.federalreserve.gov/apps/reportingforms/home/review*. On the page displayed at the link, you can find the OMB Supporting Statement by referencing the collection identifier, FR Y–9.

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 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 April 27, 2023.

A. Federal Reserve Bank of New York (Ivan J. Hurwitz, Head of Bank Applications) 33 Liberty Street, New York, New York 10045–0001. Comments can also be sent electronically to *comments.applications@ny.frb.org:*

1. *SR Bancorp, Inc., Bound Brook, New Jersey;* to become a bank holding company by acquiring Somerset Savings Bank, SLA, Bound Brook, New Jersey, upon its conversion from a savings association to a bank.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2023–06382 Filed 3–27–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

National Advisory Council for Healthcare Research and Quality: Request for Nominations for Members

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of request for nominations for members.

SUMMARY: The National Advisory Council for Healthcare Research and Quality (the Council) advises the Secretary of HHS (Secretary) and the Director of the Agency for Healthcare Research and Quality (AHRQ) with respect to activities proposed or undertaken to carry out AHRQ's statutory mission. AHRQ produces evidence to make health care safer, higher quality, more accessible, equitable, and affordable, and works within the U.S. Department of Health and Human Services and with other partners to make sure that the evidence is understood and used. Seven new members will be appointed to replace seven current members whose terms will expire in November 2023.

DATES: Nominations should be received on or before 60 days after date of publication.

ADDRESSES: Nominations should be sent by email to Jaime Zimmerman at *NationalAdvisoryCouncil@ahrq.hhs.gov.*

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, AHRQ, at (301) 427–1456.

SUPPLEMENTARY INFORMATION: 42 U.S.C. 299c provides that the Secretary shall appoint to the Council twenty-one appropriately qualified individuals. At least seventeen members shall be representatives of the public and at least one member shall be a specialist in the rural aspects of one or more of the professions or fields listed below. In addition, the Secretary designates, as ex officio members, representatives from other Federal agencies, principally agencies that conduct or support health care research, as well as Federal officials the Secretary may consider appropriate. 42 U.S.C. 299c(c)(3).

Seven current members' terms will expire in November 2023. To fill these positions, we are seeking individuals who: (1) are distinguished in the conduct of research, demonstration projects, and evaluations with respect to health care; (2) are distinguished in the fields of health care quality research or health care improvement; (3) are distinguished in the practice of medicine; (4) are distinguished in other health professions; (5) represent the private health care sector (including health plans, providers, and purchasers) or are distinguished as administrators of health care delivery systems; (6) are distinguished in the fields of health care economics, information systems, law, ethics, business, or public policy; and (7) represent the interests of patients and consumers of health care, 42 U.S.C. 299c(c)(2). Individuals are particularly sought with experience and success in these activities. AHRQ will accept nominations to serve on the Council in a representative capacity.

The Council meets in the Washington, DC, metropolitan area, generally in Rockville, Maryland, approximately three times a year to provide broad guidance to the Secretary and AHRQ's Director on the direction of and programs undertaken by AHRQ. Seven individuals will be selected by the Secretary to serve on the Council beginning with the meeting in the spring of 2024. Members generally serve 3-year terms. Appointments are staggered to permit an orderly rotation of membership.

Interested persons may nominate one or more qualified persons for membership on the Council. Self-nominations are accepted. Nominations shall include: (1) a copy of the nominee's resume or curriculum vitae; and (2) a statement that the nominee is willing to serve as a member of the Council. Selected candidates will be asked to provide detailed information concerning their financial interests, consultant positions and research grants and contracts, to permit evaluation of possible sources of conflict of interest. Please note that once a candidate is nominated, AHRQ may consider that nomination for future positions on the Council. The Department seeks a broad geographic representation. In addition, AHRQ conducts and supports research concerning priority populations, which include: Inner city; rural; low income; minority; women; children; elderly; and those with special health care needs, including those who have disabilities, need chronic care, or need end-of-life health care. See 42 U.S.C. 299(c). AHRQ also includes in its definition of priority populations those groups identified in Section 2(a) of Executive Order 13985 as members of underserved communities: Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural

areas; and persons otherwise adversely affected by persistent poverty or inequality. Nominations of persons with expertise in health care for these priority populations are encouraged.

Dated: March 21, 2023.

Marquita Cullom,

Associate Director.

[FR Doc. 2023–06332 Filed 3–27–23; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Breast Cancer in Young Women; Meeting

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with regulatory provisions, the Centers for Disease Control and Prevention (CDC) announces the following meeting for the Advisory Committee on Breast Cancer in Young Women (ACBCYW). This meeting is open to the public, limited only by audio and web conference lines (150 web conference participant spaces available). Online registration is required.

DATES: The meeting will be held on May 10, 2023, 11 a.m. to 4:30 p.m., EDT.

ADDRESSES: This meeting is virtual. Online Registration Required: All ACBCYW Meeting participants must register for the meeting online at least 2 business days in advance at *https://www.cdc.gov/cancer/breast/what_cdc_is_doing/conference.htm.* Please complete all the required fields and submit your registration no later than May 8, 2023. Registered participants will receive the audio and web conference access instructions before the meeting.

FOR FURTHER INFORMATION CONTACT: Kimberly E. Smith, MBA, MHA, Designated Federal Officer, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Hwy. NE, Mailstop S107–4, Atlanta, Georgia 30341, Telephone (404) 498–0073, Fax (770) 488–4760. Email: *acbcyw@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Committee provides advice and guidance to the Secretary, HHS; the Assistant Secretary for Health; and the Director, CDC, regarding the formative research, development, implementation and evaluation of evidence-based activities designed to prevent breast cancer (particularly among those at heightened risk) and promote the early detection and support of young women who develop the disease. The advice provided by the Committee will assist in ensuring scientific quality, timeliness, utility, and dissemination of credible appropriate messages and resource materials.

Matters to be Considered: The agenda will include discussions on current topics related to breast cancer in young women. These will include Mental/Behavioral Health, Sexual Health, Genetics and Genomics, and Provider Engagement. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2023–06316 Filed 3–27–23; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Centers for Medicare & Medicaid Services, HHS.

SUMMARY: The Centers for Medicare and Medicaid Services, Center for Medicare, Office of Minority Health has modified its organizational structure.

SUPPLEMENTARY INFORMATION: Part F of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) (last amended at **Federal Register**, Vol. 87, No. 205, pp. 64492–64494, dated October 25, 2022) is amended to reflect the establishment of the Business Operations Services & Engagement Group within the CMS Office of Minority Health (OMH).

Part F, Section FC. 10 (Organization) is revised as follows:

Office of Minority Health, Business Operations Services and Engagement Group Part F, Section FC. 20 (Functions) for the new organization is as follows:

Business Operations Services & Engagement Group

- Serves as the focal point on all CMS Office of Minority Health (OMH) shared business operations that affect the management of CMS OMH. This includes matters related to budget, human capital, facilities, technology, and internal communications.
- Manages and coordinates the correspondence program for CMS OMH, acquisition planning, human capital management, staff development, awards and recognition, and management of travel, space, computers, telephones, and other business resources.
- Develops policies and provides policy direction, coordination, and support for CMS OMH business services including budget formulation and execution, procurement planning, information technology management, facilities support, correspondence management, and human resources management.
- Monitors CMS OMH business operations, identifies Office/Group information needs and requirements, and coordinates necessary implementation activities with the Office of Financial Management (OFM), Office of Acquisition and Grants Management, Office of Information Technology, and the Chief Operating Officer.
- Formulates, executes, and manages the budget, procurement, operating plan for CMS OMH programs. Prepares briefing materials to defend budget to the Department, Office of Management and Budget (OMB), and Congress.
- Represents CMS OMH in meetings with CMS, the Department of Health and Human Services (HHS), and OMB officials regarding financing these initiatives.
- Collaborate with the Office of Acquisition and Grants Management to develop and negotiate large-scale crosscutting contracts and inter/intra agency agreements, which include the development of contractor specifications, work statements, and evaluation criteria to support the Office of the Secretary beneficiary service functions and OMH business operations.
- Represents CMS OMH leadership in meetings with OFM involving CMS OMH budget requirements. Provides support for negotiating and finalizing CMS formulation and execution plans, analysis and development of additional funding requests; analyses and

recommendations on re-programming of funds and negotiating for funds on behalf of OMH. Interacts with CMS OMH staff and other CMS components to maximize the effectiveness and efficiency of CMS spending.

• Works with other CMS components to develop programs and initiatives that support healthcare providers who practice in minority and underserved geographic regions, and whose patient mix contains a disproportionate share of minority and other minority and underserved populations.

• Develops tools, resources, training and educational materials, and outreach activities to foster awareness of health disparities and Agency efforts to improve minority health and reduce disparities for internal and external stakeholders, beneficiaries and the public in consultation with the Office of Communications, Division of Tribal Affairs, Regional Offices and other CMS components and offices, and HHS as appropriate.

• Serves as a conduit for beneficiary and stakeholder feedback and works closely with communications staff in CMS and HHS to ensure that the perspectives of vulnerable populations are represented in the development of agency communication and outreach strategies and that the implementation of these strategies is done in a manner that is culturally and linguistically appropriate and responsive to the needs of vulnerable populations.

• Coordinates grants, contracts and memorandums of understanding including partnerships with external entities including learning institutions, States, Territories and Tribal Nations.

• Serves as an agency resource and conduit responsible for outward/external promotion of messaging and the progress of CMS's work to decrease health disparities. Develop holistic and comprehensive marketing plans on resources and information that incorporate and leverage existing communication channels and vehicles in CMS to reach CMS OMH target populations.

• Manage the CMS OMH website, CMS OMH listserv announcements, social posts, partner emails, webinars and events, external information campaigns and internal communication trainings and technical support on messaging health equity and the needs of vulnerable populations.

• Provides management and administrative support to the CMS OMH Director's office.

Authority: 44 U.S.C. 3101.

Xavier Becerra,

Secretary of Health and Human Services.

[FR Doc. 2023–06396 Filed 3–27–23; 8:45 am]

BILLING CODE 4150–28–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2019–D–4843]

Soft (Hydrophilic) Daily Wear Contact Lenses—Performance Criteria for Safety and Performance Based Pathway; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''Soft (Hydrophilic) Daily Wear Contact Lenses—Performance Criteria for Safety and Performance Based Pathway; Guidance for Industry and Food and Drug Administration Staff.'' The device-specific guidance identified in this notice was developed in accordance with the final guidance entitled ''Safety and Performance Based Pathway.''

DATES: The announcement of the guidance is published in the **Federal Register** on March 28, 2023.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2019–D–4843 for ''Soft (Hydrophilic) Daily Wear Contact Lenses—Performance Criteria for Safety and Performance Based Pathway; Guidance for Industry and Food and Drug Administration Staff.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20

and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''Soft (Hydrophilic) Daily Wear Contact Lenses—Performance Criteria for Safety and Performance Based Pathway; Guidance for Industry and Food and Drug Administration Staff'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Jason Ryans, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 1613, Silver Spring, MD 20993–0002, 301–796–4908.

SUPPLEMENTARY INFORMATION:

I. Background

This device-specific guidance document provides performance criteria for premarket notification (510(k)) submissions to support the optional Safety and Performance Based Pathway, as described in the guidance entitled ''Safety and Performance Based Pathway.'' [1] As described in that guidance, substantial equivalence is rooted in comparisons between new devices and predicate devices. However, the Federal Food, Drug, and Cosmetic Act does not preclude FDA from using performance criteria to facilitate this comparison. If a legally marketed device performs at certain levels relevant to its safety and effectiveness, and a new device meets those levels of performance for the same characteristics, FDA could find the new device as safe and effective as the legally marketed device. Instead of reviewing data from direct comparison testing between the two devices, FDA could support a finding of substantial equivalence with data demonstrating the new device meets the level of performance of an appropriate predicate device(s). Under this optional Safety and Performance Based Pathway, a submitter could satisfy the requirement to compare its device with a legally marketed device by, among other things, independently demonstrating that the device's performance meets performance criteria as established in the above-listed guidance, rather than using direct predicate comparison testing for some of the performance characteristics.

A notice of availability of the draft guidance appeared in the **Federal Register** of March 4, 2020 (85 FR 12788). FDA considered comments received and revised the guidance as appropriate in response to the comments, including clarifying the recommended contact lens thickness for spectral transmittance and ultraviolet transmittance performance testing. Additionally, clarification has been included to describe how this guidance relates to FDA's special controls guidance document entitled ''Premarket Notification [510(k)] Guidance Document for Class II Daily Wear Contact Lenses.'' [2]

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on ''Soft (Hydrophilic) Daily Wear Contact Lenses.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov* and *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.* Persons unable to download an electronic copy of ''Soft (Hydrophilic) Daily Wear Contact Lenses—Performance Criteria for Safety and Performance Based Pathway; Guidance for Industry and Food and Drug Administration Staff'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00019022 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations, guidance, and forms have been approved by OMB as listed in the following table:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff''.	Q-submissions	0910–0756

[1] Available at: *https://www.fda.gov/regulatory-information/search-fda-guidance-documents/safety-and-performance-based-pathway.*

[2] Available at: *https://www.fda.gov/medical-devices/guidance-documents-medical-devices-and-radiation-emitting-products/class-ii-daily-wear-contact-lenses-premarket-notification-510k-guidance-document*

Dated: March 22, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–06374 Filed 3–27–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–D–3419]

General Considerations for Animal Studies Intended To Evaluate Medical Devices; Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a final guidance entitled ''General Considerations for Animal Studies Intended to Evaluate Medical Devices.'' FDA developed this guidance document to assist medical device sponsors, testing facilities, and other persons involved in designing, conducting, and reporting the results of animal studies intended to assess the safety of medical devices to support premarket submissions. These animal studies typically provide initial evidence of device safety, which may include device performance and handling, and the biological effects when used in a living system.

DATES: The announcement of the guidance is published in the **Federal Register** on March 28, 2023.

ADDRESSES: You may submit either electronic or written comments on Agency guidances at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions)*: Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2015–D–3419 for ''General Considerations for Animal Studies Intended to Evaluate Medical Devices.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

An electronic copy of the guidance document is available for download from the internet. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance. Submit written requests for a single hard copy of the guidance document entitled ''General Considerations for Animal Studies Intended to Evaluate Medical Devices'' to the Office of Policy, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5431, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your request.

FOR FURTHER INFORMATION CONTACT: Judith A. Davis, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2220, Silver Spring, MD 20993–0002, 301–796–6636.

SUPPLEMENTARY INFORMATION:

I. Background

FDA developed this guidance document to assist medical device sponsors, testing facilities, and other persons involved in designing, conducting, and reporting the results of animal studies intended to support the safety of medical devices for premarket submissions. These animal studies typically provide initial evidence of device safety, which may include their performance and handling, and the biological effects when used in a living system. This guidance outlines general considerations for certain animal studies used to support device premarket submissions, when a suitable alternative to an animal study is not available. This guidance provides recommendations on study planning,

including selecting an appropriate animal model; study monitoring; and study evaluation. The document also provides recommendations on test facility selection, animal housing, and records and reports, including animal study reports for premarket submissions. This guidance supersedes the final guidance ''General Considerations for Animal Studies for Cardiovascular Devices,'' issued on July 28, 2010.

A notice of availability of the draft guidance appeared in the **Federal Register** of October 14, 2015 (80 FR 61820). FDA considered comments received and revised the guidance as appropriate in response to the comments, including increased emphasis of the 3Rs to reduce, refine, and replace animal use in testing when feasible, reorganization of the guidance to better represent the study design, conduct, and reporting process, clarification of important terminology, and technical edits.

This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA on general considerations for animal Studies intended to evaluate medical devices. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons interested in obtaining a copy of the guidance may do so by downloading an electronic copy from the internet. A search capability for all Center for Devices and Radiological Health guidance documents is available at *https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/guidance-documents-medical-devices-and-radiation-emitting-products.* This guidance document is also available at *https://www.regulations.gov* or *https://www.fda.gov/regulatory-information/search-fda-guidance-documents.*

Persons unable to download an electronic copy of ''General Considerations for Animal Studies Intended to Evaluate Medical Devices'' may send an email request to *CDRH-Guidance@fda.hhs.gov* to receive an electronic copy of the document. Please use the document number GUI00001802 and complete title to identify the guidance you are requesting.

III. Paperwork Reduction Act of 1995

While this guidance contains no new collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of information are subject to review by OMB under the PRA. The collections of information in the following FDA regulations, guidance, and forms have been approved by OMB as listed in the following table:

21 CFR part; guidance; or FDA form	Topic	OMB control No.
807, subpart E	Premarket notification	0910–0120
814, subparts A through E	Premarket approval	0910–0231
814, subpart H	Humanitarian Device Exemption	0910–0332
812	Investigational Device Exemption	0910–0078
''De Novo Classification Process (Evaluation of Automatic Class III Designation)''.	De Novo classification process	0910–0844
''Requests for Feedback on Medical Device Submissions: The Pre-Submission Program and Meetings with Food and Drug Administration Staff''.	Q-submissions	0910–0756
820	Current Good Manufacturing Practice (CGMP); Quality System (QS) Regulation.	0910–0073
58	Good Laboratory Practice (GLP) Regulations for Nonclinical Laboratory Studies.	0910–0119

Dated: March 21, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–06254 Filed 3–27–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2023–N–0853]

Yogurt Products Deviating From Standard of Identity; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that we have issued a temporary permit to Chobani, LLC (the applicant) to market test lower fat yogurt products deviating from the general definition and standard of identity for yogurt with modified milkfat and fat-containing flavoring ingredients, and yogurt deviating from the yogurt standard of identity by using ultrafiltered nonfat milk as a basic dairy ingredient. The temporary permit will allow the applicant to evaluate commercial viability of the products and to collect data on consumer acceptance of the products.

DATES: This temporary permit is effective for 15 months, beginning on the date the applicant introduces or causes introduction of the test products into interstate commerce, but not later than June 26, 2023.

FOR FURTHER INFORMATION CONTACT: Marjan Morravej, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2371.

SUPPLEMENTARY INFORMATION: We are giving notice that we have issued a temporary permit to Chobani, LLC. We are issuing the temporary permit in accordance with 21 CFR 130.17, which addresses temporary permits for interstate shipments of experimental packs of food varying from the requirements of definitions and standards of identity issued under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

The temporary permit covers interstate market testing of the yogurt products. The test products deviate from the basic dairy ingredient provision of the yogurt standard of identity (21 CFR

131.200(b)). This temporary permit would allow the applicant to manufacture yogurts using ultrafiltered nonfat milk as a basic dairy ingredient through the addition of water and non-nutritive sweeteners. Consumers can distinguish this deviation in manufacturing from yogurts meeting the standard of identity for yogurt using the list of ingredients, wherein the ''ultrafiltered nonfat milk'' ingredient would be declared as such according to its common or usual name followed by a means to indicate to the consumer that the ingredient is not found in regular yogurt consistent with 21 CFR 130.10(g)(2).

The purpose of the temporary permit is to allow the applicant to market test the products throughout the United States. The temporary permit will allow the applicant to evaluate commercial viability of the products and to collect data on consumer acceptance of the products.

This temporary permit provides the temporary marketing of a maximum of 150,000,000 pounds (68,038,855.5 kilograms) of the test products. Chobani, LLC will manufacture the test products at its facilities located at 3450 Kimberly Rd. East, Twin Falls, ID 83301 and 669 County Rd. 25, New Berlin, NY 13411. Chobani, LLC will produce, market test, and distribute the test products throughout the United States.

Each ingredient used in the food must be declared on the labels as required by the applicable sections of 21 CFR part 101. This temporary permit is effective for 15 months, beginning on the date the applicant introduces or causes the introduction of the test products into interstate commerce, but not later than June 26, 2023.

Dated: March 23, 2023.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2023–06390 Filed 3–27–23; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OWH Observance Champions; Correction

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice; correction.

SUMMARY: The Office of the Assistant Secretary for Health published a document in the **Federal Register** of September 14, 2022, inviting public and private sector organizations to apply to become a Women's Health Champion. The document includes contact information for a staff member who is no longer working in the Office on Women's Health.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of September 14, 2022, in FR Doc. 2022–19839, on page 56426, correct the For further information contact caption to read:

FOR FURTHER INFORMATION CONTACT: Gabriella Forte. Office on Women's Health, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services; 1101 Wootton Parkway, Rockville, MD 20852; Telephone: 202–690–7650. Email: *Womenshealth@hhs.gov.*

Dated: March 20, 2023.

Richelle Marshall,

Deputy Director for Operations and Management, Office of the Assistant Secretary for Health, Office on Women's Health.

[FR Doc. 2023–06319 Filed 3–27–23; 8:45 am]

BILLING CODE 4150–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Basic Cancer Immunology.

Date: April 27, 2023.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sarita Kandula Sastry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20782, 301–402–4788, *sarita.sastry@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Virtual Assessments of Children and Caregivers.

Date: May 2, 2023.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Jeanne M. McCaffery, Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–3854, *jeanne.mccaffery@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: March 23, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–06404 Filed 3–27–23; 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 Meeting

Pursuant to section 10(d) 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: Center for Scientific Review Special Emphasis Panel; Cancer Etiology.

Date: April 11, 2023.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sarita Kandula Sastry, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20782, 301–402–4788, *sarita.sastry@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, 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: March 22, 2023.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–06406 Filed 3–27–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel; HEAL Initiative: Oral Complications Arising from Pharmacotherapies to Treat OUD.

Date: April 27, 2023.

Time: 12:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Dental and Craniofacial Research, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aiwu Cheng, Ph.D., MD, Scientific Review Officer, Scientific Review Branch, Division of Extramural Activities, National Institute of Dental and Craniofacial Research, 6701 Democracy Blvd., Bethesda, MD 20892, 301–594–4859, *Aiwu.cheng@nih.gov.*

(Catalogue of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: March 23, 2023.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2023–06405 Filed 3–27–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Diabetes Mellitus Interagency Coordinating Committee Meeting

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The Diabetes Mellitus Interagency Coordinating Committee (DMICC) will hold a meeting on April 24, 2023. The topic for this meeting will be ''Type 1 Diabetes (T1D): Evolving Concepts in the Pathophysiology, Screening and Prevention''. The meeting is open to the public.

DATES: The meeting will be held on April 24, 2023 from 12:00 p.m. to 4:00 p.m. EST.

ADDRESSES: The meeting will be held via the Zoom online video conferencing platform. For details, and to register, please contact *dmicc@mail.nih.gov.*

FOR FURTHER INFORMATION CONTACT: For further information concerning this meeting, including a draft agenda, which will be posted when available, see the DMICC website, *www.diabetescommittee.gov,* or contact Dr. William Cefalu, Executive Secretary of the Diabetes Mellitus Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 6707 Democracy Boulevard, Democracy 2, Room 6037, Bethesda, MD 20892, telephone: 301–435–1011; email: *dmicc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: In accordance with 42 U.S.C. 285c–3, the DMICC, chaired by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) comprising members of the Department of Health and Human Services and other federal agencies that support diabetes-related activities, facilitates cooperation, communication, and collaboration on diabetes among government entities. DMICC meetings, held several times a year, provide an opportunity for Committee members to learn about and discuss current and future diabetes programs in DMICC member organizations and to identify opportunities for collaboration. The April 24, 2023 DMICC meeting will focus on ''Type 1 Diabetes (T1D): Evolving Concepts in the Pathophysiology, Screening and Prevention.''

Any member of the public interested in presenting oral comments to the Committee should notify the contact person listed on this notice at least 5 days in advance of the meeting. Interested individuals and representatives or organizations should submit a letter of intent, a brief description of the organization represented, and a written copy of their oral presentation in advance of the meeting. Only one representative of an organization will be allowed to present; oral comments and presentations will be limited to a maximum of 5 minutes. 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 this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Because of time constraints for the meeting, oral comments will be allowed on a first-come, first-serve basis.

Members of the public who would like to receive email notification about future DMICC meetings should register for the listserv available on the DMICC website, *www.diabetescommittee.gov.*

William T. Cefalu,

Director, Division of Diabetes, Endocrinology, and Metabolic Diseases, National Institute of Diabetes and Digestive and Kidney Diseases, and Metabolic Diseases, National Institutes of Health.

[FR Doc. 2023–06358 Filed 3–27–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: Development and Commercialization of Metarrestin and Its Analogs for the Treatment of Metastatic Cancers

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The National Center for Advancing Translational Sciences, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the **SUPPLEMENTARY** Information section of this Notice to Oncala Bio Inc. (''Oncala Bio''), headquartered in Bend, OR.

DATES: Only written comments and/or applications for a license which are received by the National Center for Advancing Translational Sciences'

Office of Strategic Alliances on or before April 12, 2023 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: Sury Vepa, Ph.D., J.D., Senior Licensing and Patenting Manager, Office of Strategic Alliances, Telephone: (301)–642–0460; Email: *sury.vepa@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

1. U.S. Provisional Patent Application No. 61/576,780 filed on 12/16/2011 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–276–2011–0–US–01);

2. International Patent Application No. PCT/US2012/070155 filed on 12/17/2012 which is entitled ''Compounds and Methods for The Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–276–2011–0–PCT–02);

3. Australian Patent Application No. 2012353651 filed on 12/17/2012 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' which was issued as Patent No. 2012353651 on 03/29/2018(HHS Ref. No. E–276–2011–0–AU–03);

4. Australian Patent Application No. 2017276258 filed on 12/17/2012 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' which was issued as Patent No. 201727658 on 01/16/2020 (HHS Ref. No. E–276–2011–0–AU–10);

5. Canadian Patent Application No. 2859370 filed on 12/17/2012 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' which was issued as Patent No. 2859370 on 01/26/2021(HHS Ref. No. E–276–2011–0–CA–04);

6. European Patent Application No. 12806846.7 filed on 12/17/2012 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' which was issued as Patent No. 2791142 on 07/03/2019 and validated in Germany, Spain, France, Great Britain, Italy and Turkey (HHS Ref. No. E–276–2011–0–EP–05);

7. U.S. Patent Application No. 14/364,759 filed on 06/12/2014 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' which was issued as Patent No. 9,663,521 on 05/30/2017 (HHS Ref. No. E–276–2011–0–US–07);

8. U.S. Patent Application No. 15/606,740 filed on 05/26/2017 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' which was issued as Patent No. 10,301,314 on 05/28/2019 (HHS Ref. No. E–276–2011–0–US–08);

9. Japanese Patent Application No. 547550/2014 filed on 06/13/2014 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' which was issued as Patent No. 6463130 on 01/01/2019 (HHS Ref. No. E–276–2011–0–JP–06);

10. Japanese Patent Application No. 102107/2017 filed on 05/23/2017 which is entitled ''Compounds and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' which was issued as Patent No. 6726640 on 07/01/2020 (HHS Ref. No. E–276–2011–0–JP–09);

11. U.S. Provisional Patent Application No. 62/671,964 filed on 05/15/2018 which is entitled ''Formulations and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–114–2018–0–US–01);

12. International Patent Application No. PCT/US2019/32461 filed on 05/15/2019 which is entitled ''Formulations and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–114–2018–0–PCT–02);

13. Canadian Patent Application No. 3100211 filed on 11/12/2020 which is entitled ''Formulations and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–114–2018–0–CA–03);

14. Australian Patent Application No. 2019271208 filed on 11/13/2020 which is entitled ''Formulations and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–114–2018–0–AU–04);

15. Japanese Patent Application No. 2020–564095 filed on 11/13/2020 which is entitled ''Formulations and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–114–2018–0–JP–06);

16. U.S. Patent Application No. 17/055,256 filed on 11/13/2020 which is entitled ''Formulations and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–114–2018–0–US–07); and

17. European Patent Application No. 19728226.2 filed on 12/09/2020 which is entitled ''Formulations and Methods for the Prevention and Treatment of Tumor Metastasis and Tumorigenesis'' (HHS Ref. No. E–114–2018–0–EP–05).

The patent rights in these inventions have been either assigned and/or exclusively licensed to the government of the United States of America, University of Kansas and Northwestern University.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to the following:

''Development, manufacture, use and commercialization of Metarrestin and its analogs disclosed and claimed in the prospective licensed patent rights, for the treatment of perinucleolar compartment (PNC) positive cancers or metastatic cancers.''

E–276–2011 and E–104–2018 patent families are primarily directed to novel compositions, methods and formulations, which are selective against metastasis across different preclinical cancer histologies and without appreciable toxicity. Among others, the subject patent families disclose or claim the use of the small molecule metarrestin for the treatment of several types of metastatic cancers by disrupting a subcellular structure called the perinucleolar compartment (PNC) which is frequently found in metastatic tumors and cancer stem cells.

This Notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published Notice, the National Center for Advancing Translational Sciences receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 21, 2023.

Joni L. Rutter,

Director, Office of the Director, National Center for Advancing Translational Sciences.

[FR Doc. 2023–06318 Filed 3–27–23; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2023–0063]

Port Access Route Study: Approaches to Galveston Bay and Sabine Pass, Texas and Calcasieu Pass, Louisiana

AGENCY: Coast Guard, DHS.

ACTION: Notice of study; correction and extension of comment period.

SUMMARY: On March 1, 2023, the Coast Guard published a notice of a Port Access Route Study to evaluate the adequacy of existing vessel routing measures and determine whether additional vessel routing measures are necessary for port approaches to Galveston Bay and Sabine Pass, Texas, Calcasieu Pass, Louisiana, and international and domestic transit areas in the Eighth Coast Guard District area of responsibility. The Notice contained an incorrect telephone number for the agency contact listed. This document corrects that error and extends the public comment period to April 27, 2023.

DATES: All comments and related material in response to the notice published at 88 FR 12966, on March 1, 2023, must be received on or before April 27, 2023.

Commenters should be aware that the electronic Federal Docket Management System will not accept comments after midnight, Eastern Daylight Time, on the last day of the comment period. The correction in this document to the March 1, 2023 notice, FR Doc. 2023–04207, is applicable March 28, 2023.

ADDRESSES: You may submit comments identified by docket number USCG–2023–0063 using the Federal eRulemaking Portal (*http://www.regulations.gov*). See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section in the March 1, 2023 notice (88 FR 12966) for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of study, call or email Ms. Brandi Canada, Eighth Coast Guard District (dpw), U.S. Coast Guard: telephone (504) 671–2330, email *SMB-D8NewOrleans-TXLAPARS@uscg.mil.*

SUPPLEMENTARY INFORMATION: The comment period for the notice entitled ''Port Access Route Study: Approaches to Galveston Bay and Sabine Pass, Texas and Calcasieu Pass, Louisiana,'' that was published on March 1, 2023 (88 FR 12966) is extended to May 17, 2023.

Correction

In the **Federal Register** of March 1, 2023, in FR Doc. 2023–04207, on page 12967, in the second column, correct the **FOR FURTHER INFORMATION CONTACT** section to read:

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of study, call or email Ms. Brandi Canada, Eighth Coast Guard District (dpw), U.S. Coast Guard: telephone 504–671–2330, email *SMB-D8NewOrleans-TXLAPARS@uscg.mil.*

Dated: March 23, 2023.

Michael T. Cunningham,

Chief, Office of Regulations and Administrative Law.

[FR Doc. 2023–06372 Filed 3–27–23; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–R–2023–N022 FXGO1664091HCC0–FF09D00000–190]

Hunting and Wildlife Conservation Council Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice of a meeting of the Hunting and Wildlife Conservation Council (HWCC), in accordance with the Federal Advisory Committee Act.

DATES:

Meeting: The HWCC will meet on Monday, April 17, 2023, from 9 a.m. to 5 p.m. (Eastern Time).

Registration: Registration to attend or participate in the meeting is required. The deadline for registration is Monday, April 10, 2023.

Accessibility: The deadline for accessibility accommodation requests is Monday, April 10, 2023. Please see *Accessibility Information* below.

ADDRESSES: The meeting will take place at the U.S. Department of the Interior, 1849 C Street NW, Washington, DC 20240. Virtual participation will also be available via teleconference and broadcast over the internet. To register and receive the web address and telephone number for virtual participation, contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Douglas Hobbs, Designated Federal Officer, by email at *doug_hobbs@fws.gov,* or by telephone at 703–358–2336. 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: The Hunting and Wildlife Conservation Council (HWCC) was established to further the provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a *et seq.*), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701–1785), the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–ee), other statutes applicable to specific Department of the Interior bureaus, and Executive Order 13443 (August 16, 2007), ''Facilitation of Hunting Heritage and Wildlife Conservation.'' The HWCC's purpose is to provide recommendations to the Federal Government, through the Secretary of the Interior and the Secretary of Agriculture, regarding policies and endeavors that (a) benefit wildlife resources; (b) encourage partnership among the public; sporting conservation organizations; and Federal, State, Tribal, and territorial governments; and (c) benefit fair-chase recreational hunting and safe recreational shooting sports.

Meeting Agenda

This meeting is open to the public. The meeting agenda will include briefings from Department of the Interior and Department of Agriculture agencies on their efforts to implement the Great American Outdoors Act, Inflation Reduction Act, and Bipartisan Infrastructure and Jobs Act; on the status of current operations of the National Wildlife Refuge System related to hunting and shooting sports; on landlocked Federal lands managed by the Bureau of Land Management; and on implementation of big game migration corridor conservation efforts. The HWCC will also hear reports from its subcommittees and provide time to hear public comment. The final agenda and other related meeting information will

be posted on the HWCC website, *https://www.fws.gov/program/hwcc.*

Public Input

If you wish to provide oral public comment or provide a written comment for the HWCC to consider, contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) no later than Monday, April 10, 2023.

Depending on the number of people who want to comment and the time available, the amount of time for individual oral comments may be limited. Interested parties should contact the Designated Federal Officer, in writing (see **FOR FURTHER INFORMATION CONTACT**), for placement on the public speaker list for this meeting. Requests to address the HWCC during the meeting will be accommodated in the order the requests are received. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Designated Federal Officer up to 30 days following the meeting.

Accessibility Information

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. Please contact the Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) no later than Monday, April 10, 2023, to give the U.S. Fish and Wildlife Service sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Public Disclosure

Before including your address, phone number, email address, or other personal identifying information in a comment on this notice, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. 10.

Barbara W. Wainman,

Assistant Director—External Affairs.

[FR Doc. 2023–06340 Filed 3–27–23; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R5–ES–2023–N019; FXES11130500000–234–FF05E00000]

Endangered Species; Receipt of Recovery Permit Applications

Correction

In notice document 2023–05961 beginning on page 17601 in the issue of Thursday, March 23, 2023, in the table, the third row should read as follows:

20359D–1	University of Rhode Island, Providence, RI. Peter Paton.	Add: Roseate tern (*Sterna dougallii dougallii*).	Add: New York	Survey, capture, band, release.	Capture ..	Amend.

[FR Doc. C1–2023–05961 Filed 3–27–23; 8:45 am]

BILLING CODE 0099–10–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLOR957000.L1440000.BJ0000.212] BLM_OR_FRN_MO4500170288

Filing of Plats of Survey: Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management (BLM), Oregon State Office, Portland, Oregon, 30 calendar days from the date of this publication.

DATES: Protests must be received by the BLM prior to the scheduled date of official filing, April 27, 2023.

ADDRESSES: A copy of the plats may be obtained from the Public Room at the Bureau of Land Management, Oregon State Office, 1220 SW 3rd Avenue, Portland, Oregon 97204, upon required payment. The plats may be viewed at this location at no cost.

FOR FURTHER INFORMATION CONTACT: Robert Femling, telephone: (503) 808–6633, email: *rfemling@blm.gov,* Branch of Geographic Sciences, Bureau of Land Management, 1220 SW 3rd Avenue, Portland, Oregon 97204. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact Mr. Femling during normal business hours. The service is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The plats of survey of the following described lands are scheduled to be officially filed in the Bureau of Land Management, Oregon State Office, Portland, Oregon:

Willamette Meridian, Oregon

T. 32 S., R. 1 W., accepted March 14, 2023
T. 35 S., R. 1 E., accepted March 14, 2023
T. 35 S., R. 1 E., accepted March 14, 2023
T. 35 S., R. 2 E., accepted March 14, 2023
T. 34 S., R. 5 W., accepted March 14, 2023
T. 13 S., R. 12 E., accepted March 14, 2023
Tps. 8 & 9 S., R. 6 W., accepted March 14, 2023

A person or party who wishes to protest one or more plats of survey identified above must file a written notice of protest with the Chief Cadastral Surveyor for Oregon/Washington, Bureau of Land Management. The notice of protest must identify the plat(s) of survey that the person or party wishes to protest. The notice of protest must be filed before the scheduled date of official filing for the plat(s) of survey being protested. Any notice of protest filed after the scheduled date of official filing will be untimely and will not be considered. A notice of protest is considered filed on the date it is received by the Chief Cadastral Surveyor for Oregon/Washington during regular business hours; if received after regular business hours, a notice of protest will be considered filed the next business day. A written statement of reasons in support of a protest, if not filed with the notice of protest, must be filed with the Chief Cadastral Surveyor for Oregon/Washington within 30 calendar days after the notice of protest is filed. If a notice of protest against a plat of survey is received prior to the scheduled date of official filing, the official filing of the plat of survey identified in the notice of protest will be stayed pending consideration of the protest. A plat of survey will not be officially filed until the next business day following dismissal or resolution of all protests of the plat.

Before including your address, phone number, email address, or other personal identifying information in a notice of protest or statement of reasons, you should be aware that the documents you submit—including your personal identifying information—may be made publicly available in their entirety at any time. While you can ask us to withhold your personal identifying

information from public review, we cannot guarantee that we will be able to do so.

(Authority: 43 U.S.C., Chapter 3)

Robert Femling,

Chief Cadastral Surveyor of Oregon/ Washington.

[FR Doc. 2023–06353 Filed 3–27–23; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[223 LLUTP00000 L17110000.AQ0000 BOC:253Y00]

Notice of Public Meeting, Grand Staircase-Escalante National Monument Advisory Committee, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976, as amended, the Federal Advisory Committee Act of 1972, and the Federal Lands Recreation Enhancement Act, the U.S. Department of the Interior, Bureau of Land Management's (BLM) Grand Staircase-Escalante National Monument Advisory Committee will meet as indicated below.

DATES: The Grand Staircase-Escalante National Monument Advisory Committee will hold virtual meetings on June 27, 2023, and Sept. 12, 2023. Both meetings will be held from 9 a.m. to 4 p.m. All meetings are open to the public.

ADDRESSES: The agenda and meeting access information (including how to log in and participate in virtual meetings) will be announced on the Grand Staircase-Escalante National Monument Advisory Committee web page 30 days before the meeting at *https://bit.ly/3QGqaqJ.*

FOR FURTHER INFORMATION CONTACT: David Hercher, Paria River District Public Affairs Specialist, 669 S Highway 89A, Kanab, UT 84741, via email with the subject line ''GSENM MAC'' to *dhercher@blm.gov,* or by calling the Grand Staircase-Escalante National Monument Office at (435) 644–1200. 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 make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed above at least 7 days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

SUPPLEMENTARY INFORMATION: Presidential Proclamations 6920 and 10286 established the Grand Staircase-Escalante National Monument Advisory Committee to provide advice and information to the Secretary of the Interior (through the Director of the BLM) to consider for the management of Grand Staircase-Escalante National Monument. The 15-member committee represents a wide range of interests including Tribal, local, and State government, the educational community, the conservation community, an outfitter and guide operating within the monument, a livestock grazing permittee operating within the monument, a dispersed recreation representative, and members with expertise in paleontology, archaeology, geology, botany or wildlife, history or social science, and systems ecology.

Planned agenda items for the June meeting will include administrative business, nomination of a new committee chair, a resource management planning status update, a public comment period, and advisory committee discussion and formal recommendations for development of the science plan for the monument.

Planned agenda items for the September meeting will include administrative business, a resource management planning status update, a public comment period, and advisory committee discussion and formal recommendations for the draft environmental impact statement and proposed resource management plan.

The BLM welcomes comments from all interested parties. Both meetings will include a public comment period from 1:30 p.m. to 2:15 p.m., or once all comments have concluded. Written comments may also be sent to the Grand Staircase-Escalante National Monument at the address listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. All comments received prior to the meeting will be provided to the Grand Staircase-Escalante National Monument Advisory Committee. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Detailed meeting minutes for the Grand Staircase-Escalante National Monument Advisory Committee meeting will be maintained in the Paria River District Office and will be available for public inspection and reproduction during regular business hours within 90 days following the meeting. Minutes will also be posted to the Grand Staircase-Escalante National Monument Advisory Committee web page.

Authority: 43 CFR 1784.4–2.

Anita Bilbao,

Acting State Director, Utah.

[FR Doc. 2023–06370 Filed 3–27–23; 8:45 am]

BILLING CODE 4331–25–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[BLM_CA_FRN_MO4500169178]

Meetings of the California Desert District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) California Desert District Advisory Council (Council) will meet as indicated below.

DATES: The 2023 schedule of meetings for the Desert District Advisory Council is as follows: April 14–15; August 25–26; and December 8–9. The Council will participate in field tours of BLM-managed public lands on Friday, April 14; Friday, Aug. 26; and Friday Dec. 8, and will meet in formal session on each following Saturday. Field tours will begin at 10 a.m. and conclude at 4 p.m. Each Saturday meeting will start at 9 a.m. and conclude at 3:30 p.m. The meetings will be held in-person with a virtual participation option available on the Zoom platform. All Council meetings and field tours are open to the public.

If the COVID–19 protocols are reinstated and in-person meetings are

prohibited, the field tours will be cancelled, and the meetings will be held virtually.

ADDRESSES: The agendas and locations for the public meetings and field tours will be posted on the BLM web page at: *https://www.blm.gov/get-involved/rac/california/california-desert-district* at least 2 weeks in advance of the meetings. Field tour participants must register to attend 7 days in advance.

Written comments for the Council may be sent electronically in advance of the scheduled meetings to Public Affairs Officer Michelle Van Der Linden at *mvanderlinden@blm.gov* and Public Affairs Officer Kate Miyamoto at *kmiyamoto@blm.gov* or in writing to BLM, California Desert District/Public Affairs, 1201 Bird Center Drive, Palm Springs, CA 92262. Written comments will also be accepted at the time of the public meetings.

FOR FURTHER INFORMATION CONTACT: Michelle Van Der Linden, BLM California Desert District Office, telephone: (951) 567–1531, email: *mvanderlinden@blm.gov* or Kate Miyamoto, BLM California Desert District Office, telephone: (760) 883–8528, email: *kmiyamoto@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. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: The Council provides recommendations to the Secretary of the Interior concerning the planning and management of the public land resources within the BLM's California Desert District and offers advice on the implementation of the comprehensive, long-range plan for management, use, development, and protection of the public lands within the California Desert Conservation Area. Agenda topics for the April meeting include presentations on the Desert Discovery Center, King of the Hammers and other special recreation permits, Barstow Field Office business plan, and overviews from the district, field offices, and fire program. Agenda topics for the August meeting include presentations on the implementation of the Durability Agreement between the BLM and California Department of Fish and Wildlife for conservation measures in the California Desert, wild horse and burro program, Ridgecrest Regional Wild Horse and Burro Corrals, off-highway vehicle third-party monitoring, and overviews from the district, field offices, and fire program. Agenda topics for the December meeting include presentations on mountain bike issues in the Palm Springs-South Coast Field Office, off-highway vehicle areas in the Palm Springs-South Coast Field Office, updates on monument planning for Sand to Snow National Monument, and district, field office, and fire program overviews.

If attending a field tour, the public must provide their own transportation, meals, and beverages. Members of the public will have the opportunity to make public comments at 1:45 p.m. during the public comment portion of each meeting. While each of the meetings are scheduled from 9 a.m. to 3:30 p.m., any of the meetings could end prior to 3:30 p.m. should the Council conclude its business. Therefore, members of the public interested in a specific agenda item or discussion should schedule their arrival accordingly.

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Meeting Accessibility/Special Accommodations: Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least 7 business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

(Authority: 43 CFR 1784.4–2)

Michelle Lynch,

California Desert District Manager.

[FR Doc. 2023–06375 Filed 3–27–23; 8:45 am]

BILLING CODE 4331–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[OMB Control Number 1010–0187; Docket ID: BOEM–2023–0004]

Agency Information Collection Activities; Project Planning for the Use of Outer Continental Shelf Sand, Gravel, and Shell Resources in Construction Projects That Qualify for a Negotiated Noncompetitive Agreement

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Ocean Energy Management (BOEM) proposes this information collection request (ICR) to renew Office of Management and Budget (OMB) Control Number 1010–0187.

DATES: Comments must be received by OMB no later than April 27, 2023.

ADDRESSES: Submit your written comments on this ICR to the OMB's desk officer for the Department of the Interior at *www.reginfo.gov/public/do/PRAMain.* From the *www.reginfo.gov/public/do/PRAMain* landing page, find this information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function. Please provide a copy of your comments by parcel delivery to the BOEM Information Collection Clearance Officer, Anna Atkinson, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, Virginia 20166; or by email to *anna.atkinson@boem.gov.* Please reference OMB Control Number 1010–0187 in the subject line of your comments. You may also comment by searching the docket number BOEM–2023–0004 at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anna Atkinson by email at *anna.atkinson@boem.gov* or by telephone at 703–787–1025. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, BOEM provides the general public and other Federal

agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps BOEM assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand BOEM's information collection requirements and provide the requested data in the desired format.

Title of Collection: ''Project Planning for the Use of Outer Continental Shelf Sand, Gravel, and Shell Resources in Construction Projects that Qualify for Negotiated Noncompetitive Agreement.''

Abstract: Under the authority delegated by the Secretary of the Interior, BOEM is authorized, pursuant to section 8(k)(2) of the Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1337(k)(2)), to convey rights to OCS sand, gravel, and shell resources by negotiated noncompetitive agreement (NNA). These resources are used in shore protection and beach and coastal restoration projects, or in construction projects funded in whole or part by, or authorized by, the Federal Government.

This ICR does not change the 2020 OMB approved information collection.

From January 1, 2020, through February 8, 2023, BOEM issued eight NNAs and two amendments to existing NNAs. For BOEM to continue to meet the needs of local and State governments, information must be acquired to plan for future projects and anticipated workloads. Therefore, BOEM will issue calls for information about needed resources and locations from interested parties to develop and maintain a project schedule. BOEM also requires information to quickly respond to short-notice requests such as during an emergency declaration in the aftermath of a hurricane or tropical storm.

BOEM will publish all ongoing projects on the website *https://www.boem.gov/marine-minerals/requests-and-active-leases.*

OMB Control Number: 1010–0187.

Form Number: None.

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

Respondents/Affected Public: Potential respondents comprise States, counties, localities, and Tribes.

Total Estimated Number of Annual Responses: 80 responses.

Total Estimated Number of Annual Burden Hours: 200 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion or annually.

Total Estimated Annual Non-Hour Burden Cost: None.

Estimated Reporting and Recordkeeping Hour Burden: BOEM estimates that the annual reporting burden for this collection is about 200 hours, assuming an emergency declaration is made each year.

Local Government Compilation: 25 local governments × 1 hour per information collection response × 2 responses annually = 50 hours.

State Government Compilation: 15 State governments × 5 hours per information collection response × 2 responses annually = 150 hours (50 local government hours + 150 State hours = 200 total burden hours).

A **Federal Register** notice with a 60-day public comment period on this proposed ICR was published on December 23, 2022 (87 FR 78992). BOEM did not receive any comments during the 60-day comment period.

BOEM is again soliciting comments on the proposed ICR. BOEM is especially interested in public comments addressing the following issues: (1) is the collection necessary to the proper functions of BOEM; (2) what can BOEM do to ensure that this information is processed and used in a timely manner; (3) is the burden estimate accurate; (4) how might BOEM enhance the quality, utility, and clarity of the information to be collected; and (5) how might BOEM minimize the burden of this collection on the respondents, including minimizing the burden through the use of information technology?

Public Comment Notice: Comments submitted in response to this notice are a matter of public record and will be available for public review on *www.reginfo.gov.* You should be aware that your entire comment—including your address, phone number, email address, or other personally identifiable information included in your comment—may be made publicly available. Even if BOEM withholds your information in the context of this ICR, your comment is subject to the Freedom of Information Act (FOIA). If your comment is requested under the FOIA, your information will only be withheld if BOEM determines that a FOIA exemption to disclosure applies. BOEM will make such a determination in accordance with the Department of the Interior's (DOI's) FOIA regulations and applicable law.

In order for BOEM to consider withholding from disclosure your personally identifiable information, you must identify, in a cover letter, any information contained in your comments that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequence of the disclosure of information, such as embarrassment, injury, or other harm.

BOEM protects proprietary information in accordance with FOIA (5 U.S.C. 552) and DOI's implementing regulations (43 CFR part 2).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Karen Thundiyil,

Chief, Office of Regulations, Bureau of Ocean Energy Management.

[FR Doc. 2023–06320 Filed 3–27–23; 8:45 am]

BILLING CODE 4340–98–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1345]

Certain Automated Retractable Vehicle Steps and Components Thereof; Notice of a Commission Determination Not To Review an Initial Determination Granting a Motion To Amend the Complaint and Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined not to review an initial determination (''ID'') (Order No. 14) of the presiding administrative law judge (''ALJ''), granting an unopposed motion to amend the complaint and notice of investigation to add Anhui Wollin International Co., Ltd. (''Wollin'') and Wuhu Wow-good Auto-tech Co. Ltd. (''Wow-good'') as named respondents.

FOR FURTHER INFORMATION CONTACT: Benjamin S. Richards, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–5453. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the

Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 6, 2022. 87 FR 74661 (Dec. 6, 2022). The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain automated retractable vehicle steps and components thereof by reason of infringement of certain claims of U.S. Patent No. 9,272,667; U.S. Patent No. 9,527,449; U.S. Patent No. 9,511,717; and U.S. Patent No. 11,198,395. *Id.* The Commission's notice of investigation named as respondents Anhui Aggeus Auto-Tech Co., Ltd. (''Aggeus'') a/k/a Wuhu, Woden Auto Parts Co., Ltd. a/k/a Wuhu Wow-good, Auto-Tech Co. Ltd. a/k/a Anhui Wollin International Co., Ltd. of Wuhu, China; Rough Country LLC of Dyersburg, TN; Southern Truck of Swanton, OH; Meyer Distributing, Inc. of Jasper, IN; and Earl Owen Company, Inc. of Carrollton, TX. *Id.* at 74662. The complainant is Lund Motion Products, Inc. of Brea, CA (''Lund''). *Id.* The Office of Unfair Import Investigations is participating in the investigation. *Id.*

On February 23, 2023, the ALJ issued the subject ID, which granted Lund's unopposed motion to amend the complaint and notice of investigation to add Wollin and Wow-good as named respondents. The ID explained that Wollin and Wow-good were previously identified as aliases of respondent Aggeus and that Lund's motion is unopposed. No petitions for review of the ID were filed.

The Commission has determined not to review the subject ID. The complaint and notice of investigation are hereby amended to identify Wollin and Wow-good as distinct respondents independent of Aggeus.

The Commission vote for this determination took place on March 23, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 23, 2023.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2023–06397 Filed 3–27–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1339]

Certain Smart Thermostat Hubs, Systems Containing the Same, and Components of the Same; Notice of a Commission Determination Not To Review an Initial Determination Granting a Motion To Terminate the Investigation Based on Withdrawal of the Complaint; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 19) of the presiding administrative law judge (''ALJ'') granting the complainant's unopposed motion to terminate the above-captioned investigation in its entirety based on withdrawal of the complaint. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Paul Lall, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2043. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On October 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based on a complaint filed by EDST, LLC and Quext IoT, LLC, both of Lubbock, Texas (collectively, ''Complainants''). *See* 87 FR 64247 (Oct. 24, 2022). The complaint, as supplemented, alleges a violation of section 337 based upon the importation into the United States, sale for importation, or sale within the United States after importation of certain smart thermostat hubs, systems containing the same, and components of the same by reason of the infringement of certain claims of U.S. Patent Nos. 10,825,273; 10,803,685; and 11,189,118 (''the '118 patent''). *Id.* The complaint further alleges that a domestic industry exists. *Id.* The notice of investigation names iApartments, Inc. of Tampa, Florida; and Hsun Wealth Technology Co., Ltd. and Huarifu Technology Co., Ltd. (collectively, ''Huarifu''), both of Taoyuan City, Taiwan, as respondents. *Id.* The Office of Unfair Import Investigations is not participating in this investigation.

The Commission previously terminated the investigation as to respondent Huarifu based on Complainants' partial withdrawal of the complaint. Order No. 5 (Nov. 9, 2022), *unreviewed by* Comm'n Notice (Dec. 2, 2022). The Commission also previously amended the complaint and notice of investigation to add ITI Hong Kong Co., Ltd. of Hong Kong as a respondent. Order No. 9 (Dec. 7, 2022), *unreviewed by* Comm'n Notice (Dec. 28, 2022). The Commission also previously terminated the investigation as to all asserted claims of the '118 patent based on partial withdrawal of the complaint. Order No. 16 (Feb. 23, 2023), *unreviewed by* Comm'n Notice (March 9, 2023).

On March 2, 2023, Complainants filed an unopposed motion to terminate the investigation in its entirety based on withdrawal of the complaint.

Also on March 2, 2023, the presiding ALJ issued the subject ID (Order No. 19) granting Complainants' motion to terminate. The subject ID finds that the motion complies with Commission Rule 210.21(a)(1) (19 CFR 210.21(a)(1)) and that ''there are no extraordinary circumstances that warrant denying the motion.'' ID at 2.

No party petitioned for review of the subject ID.

The Commission has determined not to review the subject ID (Order No. 19). The investigation is terminated in its entirety.

The Commission vote for this determination took place on March 23, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 23, 2023.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2023–06398 Filed 3–27–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1302]

Certain Cellular Base Station Communication Equipment, Components Thereof, and Products Containing Same; Notice of Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on Settlement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''Commission'') has determined not to review an initial determination (''ID'') (Order No. 27) of the presiding administrative law judge (''ALJ'') granting a joint motion to terminate the investigation in its entirety based on settlement. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On February 25, 2022, the Commission instituted this investigation based on a complaint, as amended, filed on behalf of Apple Inc. of Cupertino, California (''Apple''). 87 FR 10819 (Feb. 25, 2022). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain cellular base station communication equipment, components thereof, and products containing same that infringe claims 1–3, 11, and 12 of U.S. Patent No. 9,882,282 (''the '282 patent''); claims 1–4, 6–10, 18, 19, and 21 of U.S. Patent No. 10,263,340 (''the '340 patent''); and claims 1–6, 13 and 14 of U.S. Patent No. 9,667,290 (''the '290 patent''). *Id.* The complaint also alleges that a domestic industry exists. *Id.* The Commission's notice of investigation names as respondents Ericsson AB of Stockholm, Sweden, and Ericsson Inc. of Plano, Texas (together, ''Ericsson''). *Id.* The Office of Unfair Import Investigations (''OUII'') is participating in this investigation on the issues of remedy, the public interest, and bonding. Commission Investigative Staff's Notice of Partial Participation (Mar. 7, 2022).

On December 2, 2022, the Commission determined not to review an ID granting Apple's motion for summary determination that it has satisfied the economic prong of the domestic industry requirement with respect to the '282, '340, and '290 patents. Order No. 17 (Nov. 2, 2022); *unreviewed by* Comm'n Notice (Dec. 2, 2022).

On February 6, 2023, Apple and Ericsson filed a joint motion to terminate the investigation based on a settlement agreement. On February 7, 2023, OUII filed a response in support of the motion.

On February 22, 2023, the ALJ issued the subject ID pursuant to Commission Rule 210.21(b)(1) (19 CFR 210.21(b)(1)), granting the motion. The ID finds that terminating the investigation based on settlement has no adverse effect on the public interest. No party petitioned for review of the ID.

The Commission has determined not to review the subject ID. The investigation is hereby terminated in its entirety.

The Commission vote for this determination took place on March 22, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 23, 2023.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2023–06371 Filed 3–27–23; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1300]

Certain Mobile Phones, Tablet Computers, Smart Watches, Smart Speakers, and Digital Media Players, and Products Containing Same; Commission Determination Not To Review an Initial Determination Terminating the Investigation Based on Settlement and To Vacate as Moot an Initial Determination Granting Summary Determination That the Economic Prong of the Domestic Industry Requirement Is Satisfied; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 34) of the presiding Administrative Law Judge (''ALJ'') terminating the investigation based on settlement. In addition, the Commission has determined to vacate as moot an ID (Order No. 29) granting summary determination that the economic prong of the domestic industry requirement is satisfied. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: On February 24, 2022, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based on a complaint filed by Ericsson Inc. of Plano, Texas, and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden (collectively, ''Ericsson''). *See* 87 FR 10385–86 (Feb. 24, 2022). The complaint, as supplemented, alleges a violation of

section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain mobile phones, tablet computers, smart watches, smart speakers, and digital media players, and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 7,151,430 (''the '430 patent''); 9,509,273 (''the '273 patent''); 9,853,621 (''the '621 patent''); 7,957,770 (''the '770 patent''); and 9,705,400 (''the '400 patent'') (collectively, ''Asserted Patents''). *See id.* The notice of investigation names Apple, Inc. (''Apple'') of Cupertino, California, as the respondent in the investigation. *See id.* The Office of Unfair Import Investigations (''OUII'') is also a party to the investigation. *See id.*

On December 16, 2022, the Commission partially terminated the investigation as to: (1) all asserted claims of the '400 patent; (2) all asserted claims of the '621 patent; (3) claims 11 and 12 of the '430 patent; (4) claims 1 and 7 of the '273 patent; and (5) claims 4, 8–10, 12, 15, and 16 of the '770 patent based on withdrawal of the complaint as to those patents and claims. *See* Order No. 25 (Nov. 21, 2022), *unreviewed by* Comm'n Notice (Dec. 16, 2022).

On July 26, 2022, Ericsson filed a motion for summary determination that the economic prong of the domestic industry requirement is satisfied for each of the Asserted Patents (''Ericsson's SD Motion''). On August 4, 2022, Apple filed a response to Ericsson's SD Motion stating that Apple does not dispute Ericsson's SD Motion to the extent it relates to the economic prong of the domestic industry requirement but that Apple disputes that Ericsson has satisfied the technical prong of the domestic industry requirement.

On November 30, 2022, the ALJ issued an ID (Order No. 29) granting summary determination that Ericsson satisfies the economic prong of the domestic industry requirement. On March 2, 2023, the Commission issued a notice extending until March 24, 2023, the deadline for determining whether to review the ID (Order No. 29).

On February 6, 2023, Ericsson and Apple jointly moved to terminate the investigation in its entirety based on settlement. On February 7, 2023, OUII filed a response in support of the joint motion.

On February 22, 2023, the ALJ issued an ID (Order No. 34) granting the joint motion to terminate the investigation. The ID finds that the joint motion complies with Commission Rule 210.21(b)(1), 19 CFR 210.21(b)(1). *See* ID at 3. Specifically, the ID notes that the joint motion includes confidential and public copies of the settlement agreement. *See id.* In addition, the motion states that ''[t]here are no other agreements, written or oral, express or implied between the Ericsson and Apple concerning the subject matter of this Investigation.'' *See id.* Furthermore, in accordance with Commission Rule 210.50(b)(2), 19 CFR 210.50(b)(2), the ID finds that ''terminating this Investigation is in the public interest and will conserve public and private resources.'' *See id.*

No petitions for review of the subject IDs (Order Nos. 29 and 34) were filed.

The Commission has determined not to review the ID terminating the investigation based on settlement (Order No. 34). In addition, the Commission has determined to vacate as moot the ID (Order No. 29) granting summary determination that the economic prong of the domestic industry requirement is satisfied. The investigation is terminated.

The Commission's vote for these determinations took place on March 22, 2023.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: March 22, 2023.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2023–06335 Filed 3–27–23; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application No. D–12075]

Proposed Exemption for Certain Prohibited Transaction Restrictions Pacific Investment Management Company LLC, Newport Beach, California

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 of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code). If the proposed exemption is granted, certain asset managers with specified relationships to the Pacific Investment Management Company LLC (PIMCO or the Applicant) will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84–14 (PTE 84–14 or the QPAM Exemption), notwithstanding the upcoming judgment of conviction against Allianz Global Investors US LLC (AGI US) for one count of securities fraud.

DATES:

Comments due: Written comments and requests for a public hearing on the proposed exemption should be submitted to the Department by May 12, 2023.

Exemption dates: If granted, this proposed exemption will be in effect for a period of five years beginning on May 17, 2023, and ending on May 16, 2028.

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–12075 via email to *e-OED@dol.gov* or online through *http://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. See **SUPPLEMENTARY INFORMATION** below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Brennan of the Department at (202) 693–8456. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Comments: Persons are encouraged to submit all comments electronically and not to follow with paper copies. 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. A notice of such hearing shall be published by the Department 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 *http://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 *http://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 an exemption under the authority of Section 408(a) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), and Section 4975(c)(2) of the Internal Revenue Code of 1986, as amended (the Code), and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (75 FR 66637, 66644, October 27, 2011).[1] If the proposed exemption is granted, certain asset managers with specified relationships to PIMCO (the PIMCO Affiliated QPAMs and the PIMCO Related QPAMs) will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84–14 (PTE 84–14 or the QPAM Exemption),[2] notwithstanding the upcoming judgment of conviction against Allianz Global Investors US LLC (AGI US) for one count of securities fraud.[3]

If granted, this proposed exemption will be effective for a five-year period beginning on the date a judgment of conviction against AGI US (the AGI US Conviction) is entered in the United States District Court for the Southern District of New York (the District Court) in case number 1:22–cr–00279–CM. Relief under this proposed exemption, if granted, will remain effective provided that the conditions set out below in Section III are met.

This proposed exemption would provide relief from certain of the restrictions set forth in ERISA Sections 406 and 407. It would not, however, provide relief from any other violation of law. Furthermore, the Department cautions that the relief under this proposed exemption would terminate immediately if, among other things, an affiliate of PIMCO's (as defined in Section VI(d) of PTE 84–14) is convicted of a crime described in Section I(g) of PTE 84–14 (other than the AGI US Conviction) during the Exemption Period, as defined in Section I(c). Although PIMCO could apply for a new exemption in that circumstance, the Department would not be obligated to grant the exemption.

The terms of this proposed exemption have been specifically designed to permit plans to terminate their relationships in an orderly and cost-effective fashion in the event of an additional conviction or a determination that it is otherwise prudent for a plan to terminate its relationship with an entity covered by the exemption.

Summary of Facts and Representations[4]

Relevant ERISA Provisions and PTE 84–14

1. The rules set forth in ERISA Section 406 and Code Section 4975(c)(1) proscribe certain ''prohibited transactions'' between plans and certain parties in interest with respect to those plans.[5] ERISA Section 3(14) defines parties in interest with respect to a plan to include, among others, the plan fiduciary, a sponsoring employer of the plan, a union whose members are covered by the plan, service providers with respect to the plan, and certain of their affiliates.[6] The prohibited transaction provisions under ERISA Section 406(a) and Code Section 4975(c)(1) prohibit, in relevant part, (1) sales, leases, loans, or the provision of services between a party in interest and a plan (or an entity whose assets are deemed to constitute the assets of a plan), (2) the use of plan assets by or for the benefit of a party in interest, or (3) a transfer of plan assets to a party in interest.[7]

2. Under the authority of ERISA Section 408(a) and Code Section 4975(c)(2), the Department has the authority to grant exemptions from such ''prohibited transactions'' in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011) if the Department finds an exemption is: (a) administratively feasible, (b) in the interests of the plan and of its participants and beneficiaries, and (c)

[1] For purposes of this proposed exemption: (1) references to specific provisions of ERISA Title I, unless otherwise specified, should be read to refer as well to the corresponding provisions of Code Section 4975; and (2) if granted, this proposed exemption does not provide relief from the requirements of any law not noted above. Accordingly, the Applicant is responsible for ensuring compliance with any other laws applicable to the transactions described herein.

[2] 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (Oct. 10, 1985), as amended at 70 FR 49305 (Aug. 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

[3] Section I(g) of PTE 84–14 generally provides that ''[n]either the QPAM nor any affiliate thereof . . . nor any owner . . . of a 5 percent or more interest in the QPAM is a person who within the 10 years immediately preceding the transaction has been either convicted or released from imprisonment, whichever is later, as a result of'' certain felonies including securities fraud.

[4] The Summary of Facts and Representations is based on the Applicant's representations provided in its exemption application and does not reflect factual findings or opinions of the Department unless indicated otherwise. The Department notes that availability of this exemption, is subject to the express condition that the material facts and representations contained in application D–12075 are true and complete at all times, and accurately describe all material terms of the transactions covered by the exemption. If there is any material change in a transaction covered by the exemption, or in a material fact or representation described in the application, the exemption will cease to apply as of the date of the change.

[5] For purposes of the Summary of Facts and Representations, references to specific provisions of Title I of ERISA, unless otherwise specified, refer also to the corresponding provisions of the Code.

[6] Under the Code, such parties, or similar parties, are referred to as ''disqualified persons.''

[7] The prohibited transaction provisions also include certain fiduciary prohibited transactions under ERISA Section 406(b). These include transactions involving fiduciary self-dealing, fiduciary conflicts of interest, and kickbacks to fiduciaries.

protective of the rights of participants and beneficiaries of the plan.

4. The QPAM Exemption exempts certain prohibited transactions between a party in interest and an ''investment fund'' (as defined in Section VI(b) of PTE 84–14) in which a plan has an interest if the investment manager satisfies the definition of ''qualified professional asset manager'' (QPAM) and satisfies additional conditions of the exemption. The Department developed and granted the QPAM Exemption based on the essential premise that broad relief could be afforded for all types of transactions in which a plan engages only if the commitments and investments of plan assets, and the negotiations leading thereto, are the sole responsibility of an independent, discretionary manager.[8]

5. Section I(g) of PTE 84–14 prevents an entity that may otherwise meet the definition of QPAM from utilizing the exemptive relief provided by the QPAM exemption, for itself and its client plans, if that entity, an ''affiliate'' thereof,[9] or any direct or indirect five percent or more owner in the QPAM has been either convicted or released from imprisonment, whichever is later, as a result of criminal activity described in section I(g) within the 10 years immediately preceding the transaction. Section I(g) was included in PTE 84–14, in part, based on the Department's expectation that a QPAM, and those who may be in a position to influence a QPAM's policies, must maintain a high standard of integrity.

Criminal Charge Against AGI US

6. On May 17, 2022, the Department of Justice filed a criminal information in the District Court for the Southern District of New York charging AGI US with one count of securities fraud (the Information).[10] AGI US resolved the charges through a plea agreement (the Plea Agreement) under which it agreed to enter a guilty plea to the charge set out in the Information. The judgment of the Conviction against AGI US is scheduled to be entered in District Court on May 17, 2023, in Case Number 1:22–cr–00279–CM.[11]

The Misconduct Underlying the AGI US Conviction

7. According to the Statement of Facts that served as the basis for the Plea Agreement (the Statement of Facts), beginning in at least 2014 and continuing through March 2020, AGI US engaged in a scheme to defraud investors in a series of private investment funds (the Structured Alpha Funds) that at their height had over $11 billion in assets under management (the Misconduct). The investors that were victims of the Misconduct included ERISA-covered Plans. The fraudulent scheme was carried out by the three managers in AGI US's Structured Products Group who were primarily responsible for managing the Structured Alpha Funds (collectively, the Fund Managers).[12]

8. According to the Statement of Facts, AGI US made false and misleading statements to investors that substantially understated the risks being taken by the Structured Alpha Funds and failed to disclose, and sought to affirmatively withhold, relevant risk information. AGI US repeatedly represented to investors that their investments were low-risk and designed to minimize the risk of large losses. Despite these assurances, AGI US deployed an investment strategy that prioritized returns over effective risk management by, among other things, taking aggressive options bets and devoting insufficient resources to hedge positions. When investors sought to obtain documentation to assess investment risk, AGI responded with manually altered data.

9. Beginning as early as 2015, AGI US represented to investors that the Structured Alpha Funds were purchasing hedges 10 to 25% out-of-the-money when, in fact, the hedges purchased were as much as 70% out-of-the-money. These further out-of-the-money hedges were cheaper and less protective in the event of a market downturn.

10. According to the Statement of Facts, AGI US altered over 75 risk reports and Greeks[13] that it sent to investors by manually changing ''stress test'' results to make it appear that, in market downturns, the Structured Alpha Funds would lose less money. AGI US also altered: (a) daily performance data that it sent to investors by smoothing the Structured Alpha Funds' day-to-day response to market downturns; (b) attribution data to make it appear that more significant hedging was in place; and (c) open position data to bring hedge strike distances closer to the money.

11. While the Misconduct was perpetrated by the three Fund Managers within AGI US's Structured Products Group, these individuals were able to carry out the fraud, in part, because AGI US lacked sufficient internal controls and oversight for the Structured Alpha Funds. AGI US failed to impose sufficient internal controls even though the Structured Products Group contributed approximately one-quarter of AGI US's revenue from at least 2016 through 2019.

12. In communications with Investors, AGI US described its internal controls based on the following ''three lines of defense:'' (a) the business, including portfolio management and sales; (b) Enterprise Risk Management (ERM), Compliance, and Legal departments; and (c) an Internal Audit function. AGI US's control functions however were not designed and did not function to ensure that risk for the Structured Alpha Funds was being monitored in line with the disclosures AGI US made to investors. Specifically, no one in AGI US's control function sought to verify that Tournant and the other Fund Managers were adhering to the hedging strategies communicated to investors. This lack of oversight occurred despite the fact that the materials containing these representations to investors were reviewed and approved by AGI US's Legal and Compliance departments.

13. Further, AGU US's Compliance, ERM, and Legal departments were unaware that many of the reports described above were being sent to investors at all, with or without alterations. The Fund Managers thus were able to employ more aggressive investment strategies than they had told investors they would employ, thereby exposing investors to undisclosed risk. Additionally, neither ERM nor any other independent function within AGI US was tasked with monitoring whether AGI US was adhering to the representations it had made to investors regarding the funds' management.

14. As to audits, the third line of defense, AGI US's Internal Audit department conducted an audit of the Structured Products Group in 2017 that identified certain red flags that, if pursued, may have led to the discovery

[8] See 75 FR 38837, 38839 (July 6, 2010).

[9] Section VI(d) of PTE 84–14 defines the term ''affiliate'' for purposes of Section I(g) as ''(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person, (2) Any director of, relative of, or partner in, any such person, (3) Any corporation, partnership, trust or unincorporated enterprise of which such person is an officer, director, or a 5 percent or more partner or owner, and (4) Any employee or officer of the person who—(A) Is a highly compensated employee (as defined in Section 4975(e)(2)(H) of the Code) or officer (earning 10 percent or more of the yearly wages of such person), or (B) Has direct or indirect authority, responsibility or control regarding the custody, management or disposition of plan assets.''

[10] In violation of Title 15, United States Code, Sections 78j(b) and 78ff, Title 17, Code of Federal Regulations, Section 240.10b–5, and Title 18, United States Code, Section 2.

[11] The date the Conviction will be entered may change, subject to judicial approval.

[12] The three managers were Gregoire Tournant, Trevor Taylor, and Stephen Bond-Nelson.

[13] Greeks are a group of standard metrics for evaluating a portfolio's market exposure.

of at least certain aspects of the fraudulent scheme. AGI US however did not perform any meaningful follow-up. And although the 2017 audit report ''highlighted the need to thoroughly review marketing materials to ensure that the disclosure language accurately reflects the ongoing investment processes,'' the audit did not trigger a review by anyone outside the Structured Products Group. Instead, Internal Audit assigned that review to product specialists within the Structured Products Group whose compensation was directly tied to the quarterly performance of the Structured Alpha Funds. Had an independent review occurred, AGI US's control function could potentially have uncovered at least the misrepresentations regarding the hedging positions.

15. AGI US's failure to address data quality issues in back-office functions allowed the Fund Managers' fraudulent scheme to continue undetected. In this regard, multiple AGI US employees within the Structured Products Group who were not directly involved in the fraudulent scheme were nonetheless aware that Tournant and Bond-Nelson were altering numbers on certain reports before sending them to investors. To cover up their wrongdoing, Tournant and Bond-Nelson explained to their Structured Products colleagues that they were simply correcting ''errors'' in reporting generated by back-office functions. Because there were, in fact, ongoing issues with the back office's data reporting, multiple members of the Structured Products Group who might otherwise have reported the fraudulent scheme instead accepted this explanation and carried on with their work without reporting the Misconduct.

Misconduct Was Isolated Within the Structured Products Group

16. In its Statement of Facts, the DOJ states that ''[t]he misconduct occurred only within the small Structured Products Group at AGI US. The Government's investigation has not revealed evidence that anyone at AGI US outside of the Structured Products Group was aware of the misconduct before March 2020. The investigation also has not revealed that anyone at any other organizations that fell within the broader umbrella of the parent company Allianz SE was aware of or participated in the misconduct.''

PIMCO and the PIMCO Affiliated QPAMs

17. PIMCO is a global investment management firm with $2.2 trillion in total assets under management as of December 31, 2021. PIMCO manages approximately $156 billion in assets for ERISA plans, approximately $1.89 billion in pooled funds, and approximately $9.58 billion in collective investment trusts maintained for ERISA and public pension plan investors. PIMCO manages the assets of ERISA-covered plans on a discretionary basis and advises or subadvises pooled funds.

18. PIMCO owns affiliated asset managers that routinely rely upon the QPAM Exemption to provide relief for party-in-interest investment transactions (the PIMCO Affiliated QPAMs). In addition, PIMCO currently owns, directly or indirectly, a 5% or greater interest in certain investment managers that are not affiliated with PIMCO in the actual control sense (the PIMCO Related QPAMs). The clients of the PIMCO Affiliated and Related QPAMs include plans subject to Part IV of Title I of ERISA and plans subject to Code Section 4975, with respect to which the PIMCO QPAMs rely on the QPAM Exemption or have expressly represented that PIMCO managers qualify as a QPAM or rely on the QPAM Exemption. These plans are hereinafter referred to as Covered Plans.

19. PIMCO represents that most of its ERISA plan clients pursue fixed income investment strategies that are composed of long-term investment grade credit fixed income securities. PIMCO states that it uses derivatives as a means of managing investment risk, capitalizing on market inefficiencies, and executing alpha-seeking strategies. Where PIMCO has the authority to transact in derivatives, its plan clients expect PIMCO to deploy such instruments. In this regard, PIMCO states that the overwhelming majority of plan clients—82.3%—have directed PIMCO to use derivatives to manage their assets. According to PIMCO, derivatives are an essential component of PIMCO's investment toolkit, as they play a number of important roles in managing plan portfolios, including (i) serving as a liquid means to manage credit risk through the use of cleared credit default index swaps (CDX) or credit default swaps (CDS), (ii) managing duration with potentially lower transaction costs than alternative approaches, (iii) managing currency exposure when purchasing foreign denominated securities, and (iv) sometimes serving as a more attractive substitute for the underlying security.

20. PIMCO represents that while cash bonds can be traded using several different exemptions, including PTE 75–1, Part II and ERISA Section 408(b)(17), CDS and CDX can only be traded using the QPAM Exemption or the INHAM Class Exemption.[14] Additionally, all futures contracts traded under PIMCO's clearing contracts require a QPAM representation.

PIMCO's Affiliation With AGI US

21. PIMCO is a direct subsidiary of the following three entities that are indirectly wholly owned by Allianz SE (Allianz): (1) Allianz Asset Management of America L.P. (AAM) (77.9 percent ownership of PIMCO); (2) Allianz Asset Management of America LLC (11.4 percent ownership of PIMCO), and (3) Allianz Asset Management Holding II LLC (2.4 percent of PIMCO). PIMCO's parent and managing member is AAM, which is generally responsible for oversight of PIMCO on behalf of Allianz. Allianz is PIMCO's ultimate parent company. Allianz also indirectly owns 100 percent of AGI US, the entity that engaged in the fraudulent scheme. Thus, PIMCO and AGI US are affiliates for the purposes of Section I(g) of the QPAM Exemption.

PIMCO's QPAM Exemption Ineligibility and Exemption Request

22. As affiliates of AGI US, the PIMCO Affiliated QPAMs will no longer be able to rely on the relief provided by the QPAM Exemption once AGI US is sentenced in connection with its Conviction.

23. On May 17, 2022, PIMCO filed an application with the Department requesting an exemption that would permit the PIMCO Affiliated QPAMs and PIMCO Related QPAMs to continue to rely on the QPAM Exemption, notwithstanding the AGI US Conviction. As noted above, Section I(g) of the QPAM Exemption prevents an entity that otherwise meets the definition of a QPAM from utilizing the exemptive relief provided by PTE 84–14 if that entity or an affiliate thereof or any direct or indirect owner of a 5 percent or more interest in the QPAM has been either convicted or released from imprisonment, whichever is later, as a result of criminal activity described in that section within 10 years immediately preceding the transaction. In support of its exemption request, PIMCO emphasizes that it operates completely independently from AGI US and that a denial of the exemption would result in certain hardships to Covered Plans.

[14] PTE 96–23 is a class exemption that permits various transactions involving employee benefit plans whose assets are managed by in-house asset managers (INHAMs). See 61 FR 15975 (April 10, 1996).

Separation of PIMCO From AGI US

The Applicant made the following representations regarding how PIMCO acts independently from AGI US. These representations are set forth below in paragraphs 24 through 38.

24. PIMCO and the PIMCO Affiliated QPAMs operate autonomously and independently from both Allianz and AGI US, and PIMCO has no directors, officers, or employees in common with Allianz, AAM, or any other Allianz subsidiary. Allianz employees do not have access to PIMCO's systems and are not involved in any way in the PIMCO Affiliated QPAMs' investment processes. Since Allianz acquired PIMCO in 2000, PIMCO's investment management processes have remained separate from those of Allianz to avoid restrictions that would result if PIMCO and Allianz were operated as a single coordinated entity. PIMCO and Allianz in fact entered into agreements at the time of the acquisition that provided PIMCO with substantial autonomy and independence in its management.

25. The PIMCO Affiliated QPAMs operate as separate businesses from AGI US. The PIMCO Affiliated QPAM's management of plan assets is conducted separately from (a) the investment management activities of AGI US; (b) the non-investment management business activities of Allianz, and (c) the conduct underlying the AGI US Conviction. Further, Allianz employees are not involved in the portfolio management of PIMCO accounts, nor do they supervise or oversee the PIMCO Affiliated QPAMs' portfolio management activities. Investment decisions for PIMCO accounts, including decisions regarding investment strategy, are made by PIMCO Affiliated QPAM personnel pursuant to PIMCO policies, procedures, and guidelines, without consultation with Allianz or AGI US.

26. Allianz has delegated to the PIMCO Management Board the authority to manage all of PIMCO's business affairs, except for certain extraordinary matters where Allianz retains approval rights. The PIMCO Management Board, which is comprised solely of PIMCO's Managing Directors, relies upon the PIMCO Executive Committee as the primary governance body for review and approval of significant matters. There are no representatives of Allianz (or other non-PIMCO personnel) on the Management Board. As described below, the Management Board has delegated substantially all of its operating authority to the PIMCO Executive Committee and, with respect to compensation matters, the PIMCO Performance and Compensation Committee (PCC). Certain key decisions however are retained by the Management Board, including the power to: (a) elect existing employees to Managing Director, (b) nominate and elect PIMCO's CEO and Group Chief Investment Officer, and (c) determine the composition of the Executive Committee and the PCC.

27. The PIMCO Executive Committee has authority for most significant matters and is currently composed of nine voting members and two non-voting members, all of whom are PIMCO Managing Directors. The Charter of the Executive Committee provides additional background regarding ''matters of significance to the business or operations'' of PIMCO that are required to be ''escalated to the [Executive] Committee for consideration and (as applicable) approval.'' [15]

The Executive Committee has established certain principal committees to oversee key areas of PIMCO. These committees are complemented by formal departmental and organizational lines of reporting and are typically comprised of senior officers from a cross-section of internal disciplines. Further, the committees are designed to serve as an additional control over specific functional areas and are generally separate and apart from the first-line controls that are in place in the form of clearly delineated departmental responsibilities. They include, for example, PIMCO's Global Risk Committee.

28. PIMCO's Senior Executive Officers are elected by the PIMCO Management Board and may be removed by the PIMCO Executive Committee and PCC. The PIMCO CEO and the Group CIO are the senior-most officers of PIMCO and are responsible for day-to-day leadership of PIMCO operations. They are each elected by the Management Board (⅔ majority) and remain in office until they retire, resign, or are terminated. While AAM has the right to approve any person proposed to fill such roles, neither AAM nor Allianz has disapproved of any person selected for a Senior Executive Officer role by the PIMCO Management Board. In addition, neither AAM nor Allianz has the authority to remove any such person, having delegated that authority to the PIMCO Management Board.

29. AAM has reserved for itself certain consent rights, including the authority to approve PIMCO's annual budget, approval of the hiring of certain senior officers, including the CEO and Group Chief Investment Officer, approval of changes to compensation plans and arrangements, fundamental changes to PIMCO's business, and significant financial transactions. However, in practice, AAM has not exercised these consent rights to disapprove of any of PIMCO's changes, transactions, or proposed senior officers.

While AAM has retained the authority to require PIMCO to meet certain minimum corporate standards relating to audit, accounting and reporting, legal and compliance, and risk management, PIMCO confirms its compliance with those standards through an annual statement of accountability and quarterly statements of accountability limited to financial controls. Importantly, none of the AAM standards covers investment-related decisions. Moreover, decisions on how to allocate resources to meet AAM's minimum standards and whether to implement controls that go beyond such minimum standards are left to the discretion of PIMCO's management.

30. Allianz and the other Allianz subsidiaries do not have a role in the governance of PIMCO's global subsidiaries. PIMCO's global offices are primarily organized as direct or indirect subsidiaries of PIMCO, and each has its own defined governance structure. Nonetheless, PIMCO's global affiliates are subject to PIMCO's oversight as the direct or indirect parent entity. Except as otherwise required by applicable local law, PIMCO conducts oversight of its global affiliates through the application of PIMCO's global policies.

31. Allianz employees are not involved in the portfolio management of PIMCO accounts, nor do they supervise or oversee PIMCO's portfolio management activities. Investment decisions for PIMCO accounts, including decisions regarding investment strategy, are made by PIMCO personnel pursuant to PIMCO policies, procedures, and guidelines, without consulting with Allianz or AGI US's employees, and all investment

[15] Matters include, among others, the annual budget and business plan for PIMCO and its subsidiaries; material deviations from the approved budget or business plan; corporate transactions involving PIMCO, including acquisitions of or mergers with another business or company; disposition of all or any significant portion of assets of a PIMCO company and/or the exiting from a material business area; significant reductions in staff or layoffs; material out of the ordinary course transactions or contracts; establishment or closure of a PIMCO office, branch or subsidiary; initiation of a new business area and development of new products; determination of PIMCO's risk appetite, and material deviations from the same; material changes to human resources, risk or compliance policies; and approach to and resolution of significant audit issues. Except for those key decisions where AAM's consultation or consent is required, none of the foregoing matters are escalated for approval or consent to AAM.

management functions report to PIMCO's Group CIO. PIMCO's Investment Committee, which is composed of PIMCO's CIOs and most senior investment professionals, translates the firm's macroeconomic views into specific investment risk targets which serve as parameters for every PIMCO investment portfolio.

32. Portfolio Risk Management at PIMCO is managed independently of risk management functions at Allianz as well as other Allianz asset management subsidiaries. PIMCO's Portfolio Risk Management team is fully integrated into PIMCO's investment process and sits alongside the Portfolio Management team on the trading floor. Portfolio Risk Management is headed by a Managing Director (the most senior executive level at PIMCO) who reports directly to both PIMCO's Group CIO and CEO and is a permanent member of the firm's Investment Committee. Further, the Portfolio Risk Management team maintains close contact with the firm's leadership through regular updates to the Investment Committee, weekly reviews with the CIO, and monthly reviews with the CEO.

33. PIMCO does not share information or coordinate investment management decisions with Allianz or other Allianz asset management subsidiaries, including AGI US. Among other things, PIMCO does not share investment research, portfolio holdings, client information, or trade information, and all trading decisions are made independently. Further, PIMCO does not coordinate proxy voting and makes all decisions, including decisions with respect to the valuation of securities, independently and pursuant to its own valuation policies and procedures. Further, PIMCO's products, including funds for which PIMCO Investments is the principal underwriter, are distributed independently; and PIMCO's technology and proprietary trading systems are not shared.

34. PIMCO does contract with Allianz insurance subsidiaries for the management of insurance portfolios, and therefore PIMCO shares information and holdings with respect to those activities as they would with their other clients. Regarding Allianz as a parent, information flows are limited to those necessary for appropriate prudent oversight, supervision of controls, and groupwide financial reporting and regulatory requirements.

35. Allianz, as PIMCO's parent, sets certain minimum group-level standards for control functions, including compliance and risk management. However, PIMCO's compliance and risk management programs are developed and administered independently of AAM or Allianz. In this regard, these programs do not use Allianz personnel or resources, and their leaders report directly to other senior executives at PIMCO, not to AAM or Allianz.

36. PIMCO's Global Head of Compliance and Chief Compliance Officer (Global Head of Compliance and CCO) leads the firm's global compliance program and oversees the Compliance staff responsible for formulating and administering the firm's policies and procedures and reviewing the adequacy of their effectiveness and implementation. The Global Head of Compliance and CCO reports to PIMCO's General Counsel for Global Regulatory and Litigation, who leads the firm's integrated regulatory strategies. That person in turn reports to PIMCO's Global General Counsel, who heads PIMCO's Legal and Compliance Department.

37. PIMCO utilizes internal auditors, employed by AAM, as an outsourced internal function. Global audits of PIMCO are managed by an individual at AAM who is different from the person who manages global audits for AGI US. PIMCO believes that this arrangement provides a useful layer of independence and objectivity to audits of PIMCO. The Internal Audit team begins its audits with a launch discussion with the business area being audited, together with Compliance and Enterprise Risk Management, followed by a kickoff meeting with the head of that business area, together with Compliance. At the end of its fieldwork, Internal Audit shares its draft report with the business area and Compliance to ensure factual accuracy. Thus, at the beginning and end of an audit, PIMCO Compliance—in addition to the relevant business area—is aware of the purpose, scope, and results of any audit. Further, audit findings are escalated to PIMCO's Audit Committee, which is chaired by PIMCO's Global General Counsel, if the audited business area does not complete the required corrective actions by the original target date.

38. Finally, hiring, termination, and compensation decisions for the PIMCO Affiliated QPAMs' personnel and executives are determined entirely pursuant to the PIMCO Affiliated QPAMs' processes, independent of any influence by Allianz and Allianz asset management subsidiaries. Allianz (but no other Allianz affiliate) retains the right to approve the hiring of PIMCO's CEO, Group CIO, CFO, General Counsel, and head of Compliance.

Hardship to Covered Plans

The Applicant represents that Covered Plans would suffer the following hardships if PIMCO loses its eligibility to rely on the QPAM Exemption. The Applicant's representations are set forth below in paragraphs 39 through 46.

39. Without the ability to rely upon the QPAM exemption, PIMCO will be unable to effectively implement the investment strategies that Covered Plans engaged PIMCO to pursue. As a consequence, PIMCO assumes that Covered Plans will terminate their relationship with PIMCO and seek out alternative asset managers. The transaction costs to Covered Plans of changing managers are significant, especially in many of the strategies employed by the PIMCO Affiliated QPAMs. These costs, which include the cost of liquidating assets, identifying and selecting new managers, and then reinvesting those assets, would be borne by the Covered Plans and their participants. Further, the process for transitioning to a new manager is typically lengthy and likely would involve numerous steps, each of which could last several months. These steps could include retaining a consultant, engaging in a request for proposals, negotiating contracts, and ultimately transitioning assets.

40. PIMCO currently manages 451 ERISA plan institutional separate accounts, representing $170.35 billion in assets under management. 82.3% of these 451 plan accounts, representing $155.15 billion in assets, invest in cash bonds and derivatives, whereas 17.7% of the accounts, representing $15.2 billion in assets, invest only in cash bonds. Because of the critical role played by derivatives, PIMCO believes that a Covered Plan that selects PIMCO to actively manage its fixed income portfolio pursuant to a broad set of guidelines, including derivatives, would be unlikely to retain PIMCO to run a cash bond strategy in the absence of the QPAM Exemption. Based on its understanding of the experience of other asset managers who did not receive a QPAM exemption, and who lost at least some plan business, PIMCO believes that it is likely that many of its plan clients whose guidelines permit derivatives would terminate their relationship if PIMCO could no longer trade in derivatives for those plans because PIMCO would be limited in its ability to manage a portfolio consistent with such clients' objectives. The Department notes that PIMCO is unable to give a precise estimate of the size or significance of the plan assets affected

and invites public comment on the likely impacts.

41. Below is an assessment by PIMCO of the potential harm to Covered Plans if this exemption is not granted, both in the aggregate and with respect to a representative Covered Plan account, under orderly, stressed, and expedited scenarios in which all the Plans decide to terminate their relationships with PIMCO: (1) under an ''orderly'' scenario, PIMCO would have one year to liquidate client portfolios; (2) the ''stressed'' scenario is based on input from PIMCO's trading desks and designed to be an estimate of stressed market conditions based on the previous six months of trading; (3) the ''expedited'' scenario applies a 4x factor to the stressed scenario and contemplates clients directing PIMCO to liquidate under a very short time frame (*i.e.,* 30 days); [16] PIMCO views each of these scenarios as plausible. While these charts assume for estimation purposes that all PIMCO's Plan customers would terminate their existing relationships with PIMCO, the applicant does not assert that it is likely that all PIMCO's plan customers, in fact, would terminate their existing relationships. Accordingly, the public and PIMCO are invited to comment on the reasonableness of the assumptions and the estimates below, and on the likely magnitude of termination decisions.

42. In the absence of an exemption, PIMCO represents that Covered Plans that choose to remain with PIMCO would have a circumscribed set of transactions available to them and could be prohibited from engaging in certain transactions that would be beneficial, such as hedging transactions using over-the-counter options or derivatives. Counterparties to such transactions are far more comfortable with the QPAM Exemption than any other existing exemption, and the unavailability of the QPAM Exemption could trigger a default or early termination. Even if other exemptions were acceptable to such counterparties, the cost of the transaction might well increase to reflect any lack of comfort.

43. The PIMCO Affiliated QPAMs also have entered, and could in the future enter, into contracts for other transactions such as swaps, forwards, real estate financing and leasing on behalf of their ERISA clients. The Applicant represents that: (a) these and other strategies and investments require the PIMCO Affiliated QPAMs to meet the conditions of the QPAM Exemption; (b) the loss of the QPAM Exemption could disrupt the plans using each of these strategies, as counterparties to those transactions could seek to terminate their contracts, resulting in significant losses to their Covered Plan clients; and (c) certain derivatives transactions and other contractual agreements automatically and immediately could be terminated, without notice or action, or could become subject to termination upon notice from a counterparty in the event the Applicant no longer qualifies for relief under the QPAM Exemption.

44. The question of which applicable exemption can be used is entirely in the discretion of the counterparty; if the counterparty is uncomfortable with the risks presented by other exemptions, it will simply terminate the ongoing transaction based on the plan's default (considered to occur if its investment manager is no longer able to use the QPAM Exemption). While PIMCO could argue that other exemptions apply, whether to accept that exemption is the decision of the counterparty, and the strongest counterparties generally will take the smallest legal risk on exemptive relief. Because the Department has never issued any guidance on the applicability of other exemptions to cleared and over-the-counter swaps, PIMCO's Covered Plan clients could be at a disadvantage with respect to those transactions.

45. PIMCO represents that the cost of terminating an investment is the difference between the bid and ask on the instrument since, generally, these investments are terminated earlier than contemplated and on the counterparty's side of the market. Some investments, however, are more liquid than others (*e.g.,* Treasury bonds generally are more liquid than foreign sovereign bonds, and equities generally are more liquid than swaps). Some of the strategies followed by the PIMCO Affiliated QPAMs tend to be less liquid than certain other strategies and, thus, the cost of a transition would be significantly higher than, for example, liquidating a large cap equity portfolio. The Applicant believes that, depending on the strategy, the cost of liquidating assets in connection with transitioning clients to another manager could be significant.

The Applicant estimates that Covered Plan clients following a core bond strategy would be materially impacted if the PIMCO Affiliated QPAMs were required to liquidate assets on an expedited basis. In this scenario, the Applicant estimates that a core bond strategy could incur liquidation costs of approximately 15 to 45 basis points, assuming normal market conditions, and approximately 90 to 215 basis points in stressed market conditions.

46. The Applicant represents that substantial transaction costs would be incurred if plan investors decided to withdraw from funds that are not deemed to hold plan assets. Regarding private funds that do not hold ERISA plan assets, but which may decide to redeem if the PIMCO Affiliated QPAMs are no longer able to rely on the QPAM Exemption, those redemptions would be harmful for the redeeming plans and could adversely affect others in the private fund as well.

Overall

Instrument	Total AUM	Loss (orderly)	BPS loss (stressed)	BPS loss (expedited)
Cash Bonds	$170.35B	16.21 bps	41.70 bps	166.80 bps.
(451 Plans)		$276.14 mm	$710.36 mm	$2.84B.
Cleared Swaps	$133.31B	0.41 bps	0.90 bps	3.61 bps.
(318 Plans)		$5.50 mm	$12.04 mm	$48.06 mm.
Other Derivatives (365 Plans)	$151.74B	0.38 bps	1.07 bps.	4.27 bps.
		$5.71 mm.	$16.20 mm	$64.8 mm.

[16] Covered Plan clients could direct PIMCO to promptly liquidate their portfolio(s) for a variety of reasons, including to avoid selling into a distressed market, separating from PIMCO in anticipation of mass departure of talent, or termination due to breach of QPAM representation. In this circumstance, brokers also may have some awareness of PIMCO's liquidation requirements and engage in predatory trading, knowing PIMCO is required to sell, which could result in wider bid-ask spreads.

Representative Plan Account With AUM of $3.33B:

Instrument	Loss (orderly)	BPS loss (stressed)	BPS loss (expedited)
Cash Bonds	22.5 bps ..... $7.514 mm ..	58.2 bps ..... $19.435 mm	232.84 bps. $77.743 mm.
Cleared Swaps	0.6 bps $204,793	1.4 bps $456,722	5.47 bps. $1.826 mm.
Other Derivatives	0.2 bps $63,513	1.07 bps $157,570	1.89 bps. $630,279.

Partial Liquidation: PIMCO states that it is also possible that certain Covered Plan accounts would merely direct PIMCO to cease using derivatives, in which case PIMCO represents that their portfolios would need to be repositioned to align the portfolio with the plan's objectives. While PIMCO acknowledges that it does not have the ability to make a more precise estimate of the probability that their clients would seek to use other managers, it represents that the inability to rely on the QPAM exemption in connection with certain derivatives would, among other things, inhibit PIMCO's ability to manage a portfolio consistent with a Plan client's objectives and therefore it is possible and, in many cases, likely that such clients would seek to use other managers. There would be certain transaction costs associated with liquidating the derivative positions and separately reinvesting the cash into bonds to reposition the portfolio. Using the representative portfolio above, the chart below reflects PIMCO's best estimates for liquidating the derivative positions and reinvesting the portfolio in cash bonds. For purposes of this estimate, PIMCO assumed that the repositioning must occur on an expedited timeline. Additionally, although not reflected below there would likely be heightened transaction costs in order to maintain and adjust the positioning of the portfolio over time due to PIMCO's inability to use derivatives.

Instrument	Bps loss (expedited)	$ loss (expedited)
Cash bond reinvestment.	50 bps	$16.7 mm.
Cleared Swaps.	5.47 bps	$1.826 mm.
Other Derivatives.	1.89 bps	$630,279.

Proposed Exemption's Protective Conditions

47. The Department may grant administrative exemptions under ERISA Section 408(a) only if it finds that such exemptions are administratively feasible, and protective of, and in the interest of, affected Covered Plans. This proposed exemption contains several protective conditions that would allow Covered Plans to continue to utilize the services of the PIMCO Affiliated and Related QPAMs.

48. If this proposed exemption is granted as proposed, it would allow Covered Plans to avoid costs and disruption to investment strategies the Applicant represents could arise if such Covered Plans are forced, on short notice, to hire a different QPAM or asset manager because the PIMCO Affiliated and Related QPAMs are no longer able to rely on the relief provided by PTE 84–14. Covered Plan fiduciaries however are cautioned that the Department's decision to propose this exemption should not be taken, in any way, as an indication that PIMCO asset managers will be granted exemptive relief in connection with this proposal or receive additional exemptive relief in the future.

49. The Department notes that PIMCO's high level of independence from AGI US is critically important to this exemption, and the relief hereunder is premised on the Applicant's representations that PIMCO was completely isolated from, and unaware of, the Misconduct perpetrated within AGI US and the Structured Products Group. It is a material condition of this exemption that the PIMCO Affiliated and Related QPAMs (including their officers, directors, agents, and employees of such QPAMs), other than Gregoire Tournant, Trevor Taylor, and Stephen Bond-Nelson, did not know or have reason to know of, and did not participate in the Misconduct that is the subject of the AGI US Conviction.

Further, no other party engaged on behalf of the PIMCO Affiliated QPAMs or the PIMCO Related QPAMs who was responsible for or exercised authority in connection with the management of plan assets knew or had reason to know of the Misconduct that is the subject of the AGI US Conviction nor participated in such Misconduct.

50. The protective conditions in this proposed exemption include a requirement that the PIMCO Affiliated QPAMs do not currently and may not in the future employ or knowingly engage any of the individuals who participated in the Misconduct that is the subject of the AGI US Conviction.

51. This proposed exemption prohibits a PIMCO Affiliated QPAM from using its authority or influence to direct an ''investment fund'' (as defined in Section VI(b) of PTE 84–14) that is subject to ERISA or the Code to enter into any transaction with AGI US, or to engage AGI US to provide any service to such investment fund, regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption. Further, other than with respect to employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, AGI US may not act as a fiduciary within the meaning of ERISA Section 3(21)(A)(i) or (iii), or Code Section 4975(e)(3)(A) and (C), with respect to Covered Plan assets.

52. This proposed exemption requires each PIMCO Affiliated QPAM to develop, maintain, and adjust, to the extent necessary, implement, and follow written policies and procedures (the Policies) that are reasonably designed to ensure that: (a) the asset management decisions of the PIMCO Affiliated QPAMs are conducted independently of AGI US's corporate management and business activities; (b) the PIMCO Affiliated QPAMs fully comply with ERISA's fiduciary duties and with ERISA's and the Code's prohibited transaction provisions; (c) the PIMCO Affiliated QPAMs do not knowingly participate in any other person's violation of ERISA or the Code with respect to Covered Plans; (d) any filings or statements made by the PIMCO Affiliated QPAMs to regulators on behalf of, or in relation to, Covered Plans are materially accurate and complete; (e) the PIMCO Affiliated QPAMs do not make material misrepresentations or omit material

information in their communications with such regulators, or in their communications with Covered Plans; and (f) that the PIMCO Affiliated QPAMs comply with the terms of this proposed exemption, if granted.

53. This proposed exemption requires each PIMCO Affiliated QPAM to develop, implement and maintain a training program (the Training) that is conducted at least annually for all relevant asset/portfolio management, trading, legal, compliance, and internal audit personnel. This required Training must, at a minimum, cover the Policies, ERISA and Code compliance, ethical conduct, the consequences for not complying with the conditions described in this proposed exemption, and the requirement for prompt reporting of wrongdoing.

54. This proposed exemption requires that each PIMCO Affiliated QPAM submit to biennial audits conducted by an independent auditor to evaluate the adequacy of and the PIMCO Affiliated QPAM's compliance with the Policies and Training required by the exemption. The independent auditor must be prudently selected and have appropriate technical training and proficiency with ERISA and the Code to perform the tasks required by the exemption. Further, the PIMCO Affiliated QPAMs must grant the auditor unconditional access to their business, and the auditor's engagement must specifically require the auditor to test each PIMCO Affiliated QPAM's operational compliance with the Policies and Training.

55. The independent auditor must issue a written audit report (the Audit Report) to PIMCO and the PIMCO Affiliated QPAM to which the audit applies describing the procedures performed by the auditor in connection with its examination. Further, the PIMCO Affiliated QPAMs must promptly address any identified instance of noncompliance and must promptly address, or prepare a written plan of action to address, any determination as to the adequacy of the Policies and Training and the auditor's recommendations, if any, with respect to strengthening the Policies and Training of the respective PIMCO Affiliated QPAM.

56. This proposed exemption further requires the general counsel or one of the three most senior executive officers of the PIMCO Affiliated QPAM to which the Audit Report applies to certify in writing and under penalty of perjury that the officer has reviewed the Audit Report and the exemption, if granted, and that the PIMCO Affiliated QPAM has addressed, corrected, and remedied (or has an appropriate written plan to address) any identified instance of noncompliance or inadequacy regarding the Policies and Training identified in the Audit Report.

57. With respect to any arrangement, agreement, or contract between a PIMCO Affiliated QPAM and a Covered Plan, this proposed exemption requires the PIMCO Affiliated QPAMs to agree and warrant to: (a) comply with ERISA and the Code, including the standards of prudence and loyalty set forth in ERISA Section 404; (b) refrain from engaging in prohibited transactions that are not otherwise exempt; (c) indemnify and hold harmless the Covered Plan for any actual losses resulting directly from, among other things, the PIMCO Affiliated QPAM's violation of ERISA's fiduciary duties; (d) with narrow exceptions, not restrict the ability of the Covered Plan to terminate or withdraw from its arrangement with the PIMCO Affiliated QPAM with respect to any investment in a separately managed account or pooled fund subject to ERISA and managed by such QPAM; (e) with narrow exceptions, not impose any fees, penalties, or charges for such termination or withdrawal; and (f) not include exculpatory provisions disclaiming or otherwise limiting the liability of the PIMCO Affiliated QPAM for a violation of such agreement's terms.

58. Each PIMCO Affiliated QPAM must further provide a notice of its obligations under this proposed exemption to each Covered Plan and each PIMCO Affiliated QPAM also must provide a **Federal Register** copy of the notice of the exemption, a separate summary describing the facts that led to the AGI US Conviction (the Summary), and a prominently displayed statement (the Statement) that the AGI US Conviction results in a failure to meet a condition in PTE 84–14 to each sponsor and beneficial owner of a Covered Plan.

59. Finally, this proposed exemption requires PIMCO to designate a senior compliance officer (the Compliance Officer) who will be responsible for the PIMCO Affiliated QPAMs' compliance with the Policies and Training requirements described in this exemption. The Compliance Officer must conduct five separate reviews covering each of the five consecutive twelve-month periods that comprise the Exemption Period (the Exemption Review). With respect to each Exemption Review, the Compliance Officer must determine the adequacy and effectiveness of the implementation of the Policies and Training and must issue a written report (the Exemption Report) summarizing their findings.

Statutory Findings

60. 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 exemption under ERISA Section 408(a).

61. *The Proposed Exemption is ''Administratively Feasible.''* The Department has tentatively determined that the proposed exemption is administratively feasible since, among other things, a qualified independent auditor will be required to perform an in-depth audit covering each PIMCO Affiliated QPAM's compliance with the terms of the exemption, and a corresponding written audit report will be provided to the Department and be made available to the public. The Department notes that the independent audit will provide an incentive for compliance while reducing the immediate need for review and oversight by the Department.

62. *The Proposed Exemption is ''In the Interest of the Plan.''* The Department has tentatively determined that the proposed exemption is in the interests of the participants and beneficiaries of affected Covered Plans. It is the Department's understanding, based on representations from the Applicant, that if the requested exemption is denied, Covered Plans may be forced to find other managers at a potentially significant cost. According to the Applicant, ineligibility under Section I(g) of the QPAM Exemption would deprive the Covered Plans of the investment management services that these plans expected to receive when they appointed the PIMCO Affiliated QPAMs and could result in the termination of relationships that the fiduciaries of the Covered Plans have determined to be in the best interests of those plans.

63. *The Proposed Exemption is ''Protective of the Plan.''* The Department has tentatively determined that the proposed exemption is protective of the interests of the participants and beneficiaries of affected Covered Plans. As described above, the proposed exemption is subject to a suite of conditions that include, but are not limited to: (a) the development and maintenance of the Policies; (b) the development and implementation of the Training; (c) a robust audit conducted by a qualified independent auditor; (d) the provision of certain agreements and warranties to Covered Plans by the PIMCO Affiliated QPAMs; (e) specific notices and disclosures to Covered Plans concerning the circumstances

necessitating the need for exemptive relief and the PIMCO Affiliated QPAMs' obligations under this exemption; and (f) the designation of a Compliance Officer who must ensure that the PIMCO Affiliated QPAMs continue to comply with the Policies and Training requirements of this exemption.

Summary

64. This exemption, if granted, will provide relief from certain of the restrictions set forth in ERISA Section 406 and Code Section 4975(c)(1). No relief or waiver of a violation of any other law is provided by the exemption. The relief in this proposed exemption would terminate immediately if, among other things, an affiliate of PIMCO's (as defined in Section VI(d) of PTE 84–14) is convicted of a crime described in Section I(g) of PTE 84–14 (other than the AGI US Conviction) during the Exemption Period. While PIMCO could request a new exemption in that event, the Department would not be obligated to grant the request. Consistent with this proposed exemption, the Department's consideration of additional exemptive relief is subject to the findings required under ERISA Section 408(a) and Code Section 4975(c)(2).67.

65. When interpreting and implementing this exemption, the Applicant and the PIMCO Affiliated QPAMs should resolve any ambiguities by considering the exemption's protective purposes. To the extent additional clarification is necessary, these persons or entities should contact EBSA's Office of Exemption Determinations, at 202–693–8540.

66. 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) and Code Section 4975(c)(2).

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 five-year 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, as required pursuant to 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 five-year 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 participants and beneficiaries of the plan and in a prudent fashion 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 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 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.

(5) The Department notes that all of the material facts and representations set forth in the Summary of Facts and Representations must be true and accurate at all times, and that the relief provided herein is conditioned upon the veracity of all material representations made by the Applicant.

Proposed Exemption

The Department is considering granting a five-year exemption under the authority of ERISA Section 408(a) and Internal Revenue Code (or Code) section 4975(c)(2), and in accordance with the exemption procedures regulation.[17] 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 by the Applicant to the Secretary of Labor. Therefore, this notice of proposed exemption is issued solely by the Department.

Section I. Definitions

(a) The term ''AGI US'' means Allianz Global Investors U.S. LLC.

(b) The term ''AGI US Conviction'' means the judgment of conviction against AGI US for one count of securities fraud in violation of Title 15, United States Code, Sections 78j(b) and 78ff, Title 17, Code of Federal Regulations, Section 240.10b–5, and Title 18, United States Code, Section 2, entered in the District Court for the US District Court Southern District of New York (the District Court) case number 1:22–cr-00279–CM.

(c) The term ''Covered Plan'' means a plan subject to Part IV of Title I of ERISA (an ''ERISA-covered plan'') or a plan subject to Code section 4975 (an ''IRA''), in each case, with respect to which a PIMCO Affiliated QPAM or a PIMCO Related QPAM relies on PTE 84–14, or with respect to which a PIMCO Affiliated QPAM (or any PIMCO affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84–14 or the QPAM Exemption).[18]

[17] 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011). For purposes of this proposed five-year exemption, references to ERISA section 406, unless otherwise specified, should be read to refer as well to the corresponding provisions of Code section 4975.

[18] 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430, (Oct. 10, 1985), as amended at 70 FR 49305 (Aug. 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

A Covered Plan does not include an ERISA-covered plan or IRA to the extent the PIMCO Affiliated QPAM or the PIMCO Related QPAM has expressly disclaimed reliance on QPAM status or PTE 84–14 in entering into a contract, arrangement, or agreement with the ERISA-covered plan or IRA.

(d) The term ''Exemption Period'' means May 17, 2023, through May 16, 2028.

(e) The term ''Misconduct'' means the conduct described in the Statement of Facts in case number 1:22–cr–00279–CM which indicated that beginning in at least 2014 and continuing through March 2020, AGI US engaged in a scheme to defraud investors in a series of private investment funds (the Structured Alpha Funds) that at their height had over $11 billion in assets under management.

(f) The term ''PIMCO'' means Pacific Investment Management Company LLC.

(g) The term ''PIMCO Affiliated QPAM'' means a ''qualified professional asset manager,'' as defined in Section VI(a) of PTE 84–14, that relies on the relief provided by PTE 84–14 or represents to ERISA-covered plans and/or IRAs that it qualifies as a QPAM, and with respect to which PIMCO is a current or future ''affiliate'' (as defined in Section VI(d)(1) of PTE 84–14). For the purposes of this exemption, the term ''PIMCO Affiliated QPAMs'' does not include AGI US, or entities that are under the control of AGI US. The term only includes entities that are 100 percent owned, directly or indirectly, by PIMCO.

(h) The term ''PIMCO Related QPAM'' means any current or future ''qualified professional asset manager'' (as defined in section VI(a) of PTE 84–14) that relies on the relief provided by PTE 84–14, and with respect to which PIMCO owns a direct or indirect five percent or more interest, but with respect to which PIMCO is not an ''affiliate'' (as defined in Section VI(d)(1) of PTE 84–14).

Section II. Covered Transactions

The PIMCO Affiliated QPAMs, as defined in Section I(g), and the PIMCO Related QPAMs, as defined in Section I(h), will not be precluded from relying on the exemptive relief provided by the QPAM Exemption during the Exemption Period, notwithstanding the AGI US Convictions (as defined in Section I(a)) if the conditions in Section III are satisfied.

Section III. Conditions

(a) The PIMCO Affiliated QPAMs and the PIMCO Related QPAMs (including their officers, directors, agents other than AGI US, and employees of such QPAMs) did not know or have reason to know of and did not participate in the Misconduct that is the subject of the AGI US Conviction. Further, any other party engaged on behalf of the PIMCO Affiliated QPAMs and PIMCO Related QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets did not know nor have reason to know of and did not participate in the Misconduct that is the subject of the AGI Conviction. For purposes of this proposed exemption, ''participate in'' refers not only to active participation in the Misconduct of AGI US that is the subject of the AGI US Conviction, but also to knowing approval of the Misconduct, or knowledge of such Misconduct without taking active steps to stop it, including reporting the Misconduct to the individual's supervisors and to the Board of Directors.

(b) The PIMCO Affiliated QPAMs and the PIMCO Related QPAMs (including their officers, directors, and agents other than AGI US, and employees of such PIMCO QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets) did not receive direct compensation or knowingly receive indirect compensation in connection with the Misconduct that is the subject of the AGI US Conviction. Further, any other party engaged on behalf of the PIMCO Affiliated QPAMs and the PIMCO Related QPAMs who had responsibility for or exercised authority in connection with the management of plan assets did not receive direct compensation nor knowingly receive indirect compensation in connection with the Misconduct that is the subject of the AGI US Conviction;

(c) The PIMCO Affiliated QPAMs do not currently and will not in the future employ or knowingly engage any of the individuals who participated in any of the Misconduct, or any individual who was employed in AGI US's Structured Products Group from January 1, 2014, through March 31, 2020;

(d) At all times during the Exemption Period, no PIMCO Affiliated QPAM will use its authority or influence to direct an ''investment fund'' (as defined in Section VI(b) of PTE 84–14) that is subject to ERISA or the Code and managed by such PIMCO Affiliated QPAM in reliance on PTE 84–14 or with respect to which a PIMCO Affiliated QPAM has expressly represented to an ERISA-covered plan or IRA with assets invested in such ''investment fund'' that it qualifies as a QPAM or relies on the QPAM class exemption, to enter into any transaction with AGI US or to engage AGI US to provide any service to such investment fund for a direct or indirect fee borne by such investment fund regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption;

(e) Any failure of a PIMCO Affiliated QPAM or a PIMCO Related QPAM to satisfy Section I(g) of PTE 84–14 arose solely from the AGI US Conviction;

(f) A PIMCO Affiliated QPAM or a PIMCO Related QPAM did not exercise authority over the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or Code Section 4975 (an IRA) in a manner that it knew or should have known would: (i) further the Misconduct that is the subject of the AGI US Conviction; or (ii) cause the PIMCO Affiliated QPAM, the PIMCO Related QPAM, or their affiliates to directly or indirectly profit from the Misconduct that is the subject of the AGI US Conviction;

(g) Other than with respect to employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, AGI US will not act as a fiduciary within the meaning of ERISA Section 3(21)(A)(i) or (iii) or Code Section 4975(e)(3)(A) and (C) with respect to ERISA-covered plan and IRA assets; provided, however, that PIMCO will not be treated as violating the conditions of this exemption solely because AGI US acted as an investment advice fiduciary within the meaning of ERISA Section 3(21)(A)(ii) or Code Section 4975(e)(3)(B);

(h)(1) Within 180 calendar days of the effective date of this five-year exemption, each PIMCO Affiliated QPAM must immediately develop, maintain, implement, and follow written policies and procedures (the Policies) that must require, and be reasonably designed to ensure that:

(i) The asset management decisions of the PIMCO Affiliated QPAM are conducted independently of the corporate management and business activities of AGI US;

(ii) The PIMCO Affiliated QPAM fully complies with ERISA's fiduciary duties and with ERISA and the Code's prohibited transaction provisions as applicable with respect to each Covered Plan, and does not knowingly participate in any violation of these duties and provisions with respect to Covered Plans;

(iii) The PIMCO Affiliated QPAM does not knowingly participate in any other person's violation of ERISA or the Code with respect to Covered Plans;

(iv) Any filings or statements made by the PIMCO Affiliated QPAM to

regulators, including, but not limited to, the Department, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation on behalf of or in relation to Covered Plans are materially accurate and complete to the best of such QPAM's knowledge at that time;

(v) To the best of the PIMCO Affiliated QPAM's knowledge at the time, the PIMCO Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to Covered Plans or make material misrepresentations or omit material information in its communications with Covered Plans;

(vi) The PIMCO Affiliated QPAM complies with the terms of this exemption; and

(vii) Any violation of or failure to comply with an item in subparagraphs (ii) through (vi), is corrected as soon as reasonably possible upon discovery, or as soon after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and any such violation or compliance failure not so corrected is reported, upon the discovery of such failure to so correct, in writing, to the head of compliance and the General Counsel (or their functional equivalent) of the relevant line of business that engaged in the violation or failure, and the independent auditor responsible for reviewing compliance with the Policies. A PIMCO Affiliated QPAM will not be treated as having failed to develop, implement, maintain, or follow the Policies if it corrects any instance of noncompliance as soon as reasonably possible upon discovery, or as soon as reasonably possible after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and if it adheres to the reporting requirements set forth in this subparagraph (vii);

(2) Within 180 calendar days after the effective date of the exemption, each PIMCO Affiliated QPAM must develop, maintain, adjust (to the extent necessary), and implement a training program during the Exemption Period that will be conducted at least annually for all relevant PIMCO Affiliated QPAM asset/portfolio management, trading, legal, compliance, and internal audit personnel (the Training). The Training required under this exemption may be conducted electronically and must:

(i) At a minimum, cover the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions), ethical conduct, the consequences for not complying with the conditions of this exemption (including any loss of exemptive relief provided herein), and prompt reporting of wrongdoing; and

(ii) Be conducted by a professional who has been prudently selected and has appropriate technical training and proficiency with ERISA and the Code to perform the tasks required by this exemption;

(iii) Be verified through in-training knowledge checks, ''graduation'' tests, and/or other technological tools designed to confirm that personnel fully and in good faith participate in the Training;

(i)(1) Each PIMCO Affiliated QPAM must submit to an audit conducted every two years by an independent auditor who has been prudently selected and has appropriate technical training and proficiency with ERISA and the Code to evaluate the adequacy of the Policies and Training conditions described herein and each PIMCO Affiliated QPAM's compliance with them. The audit requirement must be incorporated into the Policies. Each audit must cover the preceding consecutive twelve (12) month period. The first audit under this exemption must cover the period from May 17, 2023, through May 16, 2024, and must be completed by November 16, 2024. The second audit must cover the period from May 17, 2025, through May 16, 2026, and must be completed by November 16, 2026. The third audit must cover the period from May 17, 2027, through May 16, 2028, and must be completed by November 16, 2028.

(2) Within the scope of the audit and to the extent necessary for the auditor, in its sole opinion, to complete its audit and comply with the conditions for relief described herein, The PIMCO Affiliated QPAMs will grant the auditor unconditional access to their businesses, including, but not limited to: its computer systems; business records; transactional data; workplace locations; training materials; and personnel. Such access will be provided only to the extent that it is not prevented by state or federal statute, or involves communications subject to attorney client privilege and may be limited to information relevant to the auditor's objectives as specified by the terms of this exemption;

(3) The auditor's engagement must specifically require the auditor to determine whether each PIMCO Affiliated QPAM has developed, implemented, maintained, and followed the Policies in accordance with the conditions of this exemption, and has developed and implemented the Training as required herein;

(4) The auditor's engagement must specifically require the auditor to test each PIMCO Affiliated QPAM's operational compliance with the Policies and Training conditions. In this regard, the auditor must test, for each QPAM, a sample of the QPAM's transactions involving Covered Plans sufficient in size and nature to afford the auditor a reasonable basis to determine the QPAM's operational compliance with the Policies and Training conditions;

(5) For each audit, on or before the end of the relevant period described in Section III(i)(1) for completing the audit, the auditor must issue a written report (the Audit Report) to PIMCO and the PIMCO Affiliated QPAM to which the audit applies that describes the procedures performed by the auditor during its examination. The auditor, at its discretion, may issue a single consolidated Audit Report that covers all the PIMCO Affiliated QPAMs. The Audit Report must include the auditor's specific determinations regarding:

(i) The adequacy of each PIMCO Affiliated QPAM's Policies and Training and compliance with the Policies and Training conditions; the need, if any, to strengthen such Policies and Training; and any instance of the respective PIMCO Affiliated QPAM's noncompliance with the written Policies and Training conditions described in Section III(h) above. The PIMCO Affiliated QPAM must promptly address any identified noncompliance. The PIMCO Affiliated QPAM must also promptly address or prepare a written plan of action to address any determination by the auditor regarding the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the PIMCO Affiliated QPAM Policies and Training. Any action taken, or the plan of action to be taken, by the respective PIMCO Affiliated QPAM must be included in an addendum to the Audit Report (and such addendum must be completed prior to the certification described in Section III(i)(7) below). In the event such a plan of action to address the auditor's recommendation regarding the adequacy of the Policies and Training is not completed by the time of submission of the Audit Report, the following period's Audit Report must state whether the plan was satisfactorily completed. Any determination by the auditor that the respective PIMCO Affiliated QPAM has implemented, maintained, and followed sufficient Policies and a Training must not be based solely or in substantial part on an absence of evidence indicating

noncompliance. In this last regard, any finding that a PIMCO Affiliated QPAM has complied with the requirements under this subparagraph must be based on evidence that such PIMCO Affiliated QPAM has implemented, maintained, and followed the Policies and Training conditions required by this exemption. Furthermore, the auditor must not solely rely on the Annual Report created by the compliance officer (the Compliance Officer), as described in Section III(m) below, as the basis for the auditor's conclusions in lieu of independent determinations and testing performed by the auditor, as required by Section III(i)(3) and (4) above; and

(ii) The adequacy of the most recent Annual Review described in Section III(m);

(6) The auditor must notify the respective PIMCO Affiliated QPAM of any instance of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor regardless of whether the audit has been completed as of that date;

(7) With respect to each Audit Report, the general counsel or one of the three most senior executive officers of PIMCO or the Affiliated QPAM with respect to which the Audit Report applies must certify in writing and under penalty of perjury that (a) the officer has reviewed the Audit Report and this exemption; and (b) the PIMCO Affiliated QPAM has addressed, corrected or remedied any instance of noncompliance or inadequacy or has an appropriate written plan in place to address any instance of noncompliance or inadequacy regarding the Policies and Training identified in the Audit Report. The certification must also include the signatory's determination that the Policies and Training in effect at the time of the certification are adequate to ensure compliance with the exemption conditions and with the applicable provisions of ERISA and the Code;

(8) The PIMCO Board of Directors is provided with a copy of each Audit Report, and a senior executive officer with a direct reporting line to the highest-ranking legal compliance officer of PIMCO must review the Audit Report for each PIMCO Affiliated QPAM and certify in writing under penalty of perjury that such officer has reviewed the Audit Report;

(9) Each PIMCO Affiliated QPAM provides its certified Audit Report by electronic mail to *e-oed.gov.* This delivery must take place no later than thirty (30) days following completion of the Audit Report. This delivery must take place no later than thirty (30) calendar days following completion of the Audit Report. The Audit Report will be made part of the public record regarding this exemption. Furthermore, each PIMCO Affiliated QPAM must make its Audit Report unconditionally available, electronically or otherwise, for examination upon request by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of a Covered Plan;

(10) Each PIMCO Affiliated QPAM and the auditor must submit to OED any engagement agreement(s) entered into pursuant to the engagement by the auditor under this exemption no later than sixty (60) calendar days after the execution of any such engagement agreement;

(11) The auditor must provide the Department, upon request, for inspection and review, access to all the workpapers created and utilized during the audit, provided such access and inspection is otherwise permitted by law; and

(12) PIMCO must notify the Department of a change in the independent auditor no later than sixty (60) calendar days after the engagement of a substitute or subsequent auditor and must provide an explanation for the substitution or change including a description of any material disputes between the terminated auditor and PIMCO;

(j) Throughout the Exemption Period, with respect to any arrangement, agreement, or contract between a PIMCO Affiliated QPAM and a Covered Plan, the PIMCO Affiliated QPAM agrees and warrants:

(1) To comply with ERISA and the Code, as applicable with respect to such Covered Plan; to refrain from engaging in prohibited transactions that are not otherwise exempt (and to promptly correct any inadvertent prohibited transactions); and to comply with the standards of prudence and loyalty set forth in ERISA Section 404, with respect to each such ERISA-covered plan and IRA (to the extent that ERISA Section 404 is applicable);

(2) To indemnify and hold harmless the Covered Plan for any actual losses resulting directly from the PIMCO Affiliated QPAM's violation of ERISA's fiduciary duties, as applicable, and of the prohibited transaction provisions of ERISA and the Code, as applicable; a breach of contract by the QPAM; or any claim arising out of the failure of such PIMCO Affiliated QPAM to qualify for the exemptive relief provided by PTE 84–14 as a result of a violation of Section I(g) of PTE 84–14, other than the Conviction. This condition applies only to actual losses caused by the PIMCO Affiliated QPAM's violations. Actual losses include losses and related costs arising from unwinding transactions with third parties and from transitioning Plan assets to an alternative asset manager as well as costs associated with any exposure to excise taxes under Code Section 4975 because of TTI's inability to rely upon the relief in the QPAM Exemption;

(3) Not to require (or otherwise cause) the Covered Plan to waive, limit, or qualify the liability of the PIMCO Affiliated QPAM for violating ERISA or the Code or engaging in prohibited transactions;

(4) Not to restrict the ability of the Covered Plan to terminate or withdraw from its arrangement with the PIMCO Affiliated QPAM with respect to any investment in a separately managed account or pooled fund subject to ERISA and managed by the QPAM, with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any of these arrangements involving investments in pooled funds subject to ERISA entered into after the initial effective date of this exemption, the adverse consequences must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming an ERISA-covered plan's or IRA's investment, and the restrictions must be applicable to all such investors and effective no longer than reasonably necessary to avoid the adverse consequences;

(5) Not to impose any fees, penalties, or charges for such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure the equitable treatment of all investors in a pooled fund in the event the withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in like manner to all such investors;

(6) Not to include exculpatory provisions disclaiming or otherwise limiting the liability of the PIMCO Affiliated QPAM for a violation of such agreement's terms. To the extent consistent with ERISA Section 410, however, this provision does not prohibit disclaimers for liability caused by an error, misrepresentation, or

misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of PIMCO and its affiliates, or damages arising from acts outside the control of the PIMCO Affiliated QPAM; and

(7) (a) Each PIMCO Affiliated QPAM must provide a notice of its obligations under this Section III(j) to each sponsor or beneficial owner of a Covered Plan which is a client as of the Effective Date by a date that is 90 days after the Effective Date. For all other Covered Plans that become clients between the Effective Date and a date that is 120 days after the Effective Date, each sponsor or beneficial owner of such Covered Plans must be provided with a notice of the obligations under this section by a date that is 180 days after the Effective Date. All prospective sponsors and beneficial owners of Covered Plans that enter into a written investment management agreement with a PIMCO Affiliated QPAM after a date that is 120 days after the Effective Date must receive a copy of the notice of the obligations under this Section III(j) before, or contemporaneously with, the Covered Plan's receipt of a written investment management or comparable agreement from the PIMCO Affiliated QPAM. The notices may be delivered electronically (including by an email that has a link to a website that contains the documents required by this section). Notwithstanding the above, a PIMCO Affiliated QPAM will not violate this condition solely because a Covered Plan refuses to sign an updated investment management agreement.

(k) Within 90 days after the effective date of this exemption, each PIMCO Affiliated QPAM provides notice of the exemption as published in the **Federal Register**, along with a separate summary describing the facts that led to the Conviction (the Summary), which has been submitted to the Department, and a prominently displayed statement (the Statement) that the AGI US Conviction results in a failure to meet a condition in the QPAM Exemption to each sponsor or beneficial owner of a Covered Plan that has entered into a written investment management agreement with a PIMCO Affiliated QPAM, or the sponsor of an investment fund in any case where a PIMCO Affiliated QPAM acts as a sub-adviser to the investment fund in which such Covered Plan invests. For all other Covered Plans that become clients between the Effective Date and a date that is 120 days after the Effective Date, each sponsor or beneficial owner of such Covered Plans is provided the documents described in this Section III(k) by a date that is 180 days after the Effective Date. All sponsors or beneficial owners of prospective Covered Plans that enter into a written investment management or comparable agreement with a PIMCO Affiliated QPAM after a date that is 120 days after the Effective Date must receive a copy of the notice of the exemption, the Summary, and the Statement before, or contemporaneously with, the Covered Plan's receipt of a written investment management agreement from the PIMCO Affiliated QPAM. The notices may be delivered electronically (including by an email that has a link to a website that contains the documents required by this section). Notwithstanding the above, a PIMCO Affiliated QPAM will not violate the condition solely because a Covered Plan refuses to sign an updated investment management agreement.

(l) The PIMCO Affiliated QPAM must comply with each condition of PTE 84–14, as amended, with the sole exception of the violation of Section I(g) of PTE 84–14 that is attributable to the AGI US Conviction. If an affiliate of PIMCO's (as defined in Section VI(d) of PTE 84–14) is convicted of a crime described in Section I(g) of PTE 84–14 (other than the Conviction) during the Exemption Period, relief in this exemption would terminate immediately;

(m)(1) Within 60 calendar days after the effective date of this exemption, each PIMCO Affiliated QPAM must designate a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described herein. Notwithstanding the above, no person, including any person referenced in the Statement of Facts underlying the AGI US Conviction, who knew of, or should have known of, or participated in, any of the Misconduct, by any party, may be involved with the designation or responsibilities required by this condition, unless the person took active documented steps to stop the Misconduct. The Compliance Officer must conduct a review of each twelve-month period of the Exemption Period (the Exemption Review), to determine the adequacy and effectiveness of the implementation of the Policies and Training. The following conditions must be met with respect to the Compliance Officer:

(i) The Compliance Officer must be a professional who has extensive experience with, and knowledge of, the regulation of financial services and products, including under ERISA and the Code; and

(ii) The Compliance Officer must have a direct reporting line to the highest-ranking corporate officer in charge of compliance for the applicable PIMCO Affiliated QPAM.

(2) With respect to the Exemption Review, the following conditions must be met:

(i) The annual Exemption Review includes a review by the Compliance Officer of: (A) the PIMCO Affiliated QPAM's compliance with and effectiveness of the Policies and Training; (B) any compliance matter related to the Policies or Training that was identified by, or reported to, the Compliance Officer or others within the compliance and risk control function (or its equivalent) during the previous year; (C) the most recent Audit Report issued pursuant to this exemption; (D) any material change in the relevant business activities of the PIMCO Affiliated QPAMs; and (E) any change to ERISA, the Code, or regulations related to fiduciary duties and the prohibited transaction provisions that may be applicable to the activities of the PIMCO Affiliated QPAMs;

(ii) The Compliance Officer must prepare a written report for the Exemption Review (an Exemption Report) that: (A) summarizes the Compliance Officer's material activities during the prior year; (B) sets forth any instance of noncompliance discovered during the prior year, and any related corrective action; (C) details any change to the Policies or Training to guard against any similar instance of noncompliance occurring again; and (D) makes recommendations, as necessary, for additional training, procedures, monitoring, or additional and/or changed processes or systems, and management's actions on such recommendations;

(iii) In the Exemption Report, the Compliance Officer must certify in writing that to the best of their knowledge at the time: (A) the report is accurate; (B) the Policies and Training are working in a manner that is reasonably designed to ensure that the Policies and Training requirements described herein are met; (C) any known instance of noncompliance during the prior year and any related corrections taken to date have been identified in the Exemption Report; and (D) the PIMCO Affiliated QPAMs have complied with the Policies and Training, and/or corrected (or are correcting) any known instances of noncompliance in accordance with Section III(h) above;

(iv) The Exemption Report must be provided to appropriate corporate officers of PIMCO and each PIMCO Affiliated QPAM to which such report relates, the head of compliance and the general counsel (or their functional equivalent) of the relevant PIMCO

Affiliated QPAM. The Exemption Report also must be made unconditionally available to the independent auditor described in Section III(i) above;

(v) The annual Exemption Review, including the Compliance Officer's written Report, must be completed within 90 calendar days following the end of the period to which it relates. The annual Exemption Reviews under this exemption must cover the following periods: May 17, 2023, through May 16, 2024; May 17, 2024, through May 16, 2025; May 17, 2025, through May 16, 2026; May 17, 2026, through May 16, 2027; May 17, 2027, through May 16, 2028.

(n) AGI US complies in all material respects with the requirements imposed by a U.S. regulatory authority in connection with the AGI US Conviction;

(o) Each PIMCO Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met for six (6) years following the date of any transaction for which the PIMCO Affiliated QPAM relies upon the relief in this exemption;

(p) During the Exemption Period, PIMCO must: (1) immediately disclose to the Department any Deferred Prosecution Agreement (a DPA) or Non-Prosecution Agreement (an NPA) with the U.S. Department of Justice, entered into by PIMCO or any of its affiliates (as defined in Section VI(d) of PTE 84–14) in connection with the conduct described in Section I(g) of PTE 84–14 or ERISA Section 411; and (2) immediately provide any information requested by the Department, as permitted by law, regarding the agreement and/or conduct and allegations that led to the agreement;

(q) Within 60 calendar days after the effective date of this exemption, each PIMCO Affiliated QPAM, in its agreements with, or in other written disclosures provided to Covered Plans, will clearly and prominently inform Covered Plan clients of their right to obtain a copy of the Policies or a description (Summary Policies) which accurately summarizes key components of the PIMCO Affiliated QPAM's written Policies developed in connection with this exemption. If the Policies are thereafter changed, each Covered Plan client must receive a new disclosure within 180 calendar days following the end of the calendar year during which the Policies were changed.[19] With respect to this requirement, the description may be continuously maintained on a website, provided that such website link to the Policies or Summary Policies is clearly and prominently disclosed to each Covered Plan;

(r) A PIMCO Affiliated QPAM will not fail to meet the conditions of this exemption solely because a different PIMCO Affiliated QPAM fails to satisfy a condition for relief described in Sections III(c), (d), (h), (i), (j), (k), (l), (o) or (q); or if the independent auditor described in Section III(i) fails to comply with a provision of the exemption other than the requirement described in Section III(i)(11), provided that such failure did not result from any actions or inactions of PIMCO or its affiliates; and

(s) All the material facts and representations set forth in the Summary of Facts and Representations are true and accurate at all times.

(t) With respect to an asset manager that becomes a PIMCO Affiliated QPAM after the effective date of this exemption by virtue of being acquired (in whole or in part) by PIMCO or a subsidiary of PIMCO (a ''newly-acquired PIMCO Affiliated QPAM''), the newly-acquired PIMCO Affiliated QPAM would not be precluded from relying on the exemptive relief provided by PTE 84–14 notwithstanding the Conviction as of the closing date for the acquisition; however, the operative terms of the exemption shall not apply to the newly-acquired PIMCO Affiliated QPAM until a date that is six (6) months after the closing date for the acquisition. To that end, the newly-acquired PIMCO Affiliated QPAM will initially submit to an audit pursuant to Section III(i) of this exemption as of the first audit period that begins following the closing date for the acquisition. However, the first audit to which a newly-acquired QPAM submits may require the auditor to look back into the previous year for that particular QPAM. This will be the case where the interval between the acquisition date and the beginning of the next audit period is greater than 6 months.

Exemption dates: If granted, the exemption will be in effect for a period of five years beginning on May 17, 2023, and ending on May 16, 2028.

[19] If the Applicant meets this disclosure requirement through Summary Policies, changes to the Policies shall not result in the requirement for a new disclosure unless, as a result of changes to the Policies, the Summary Policies are no longer accurate.

Signed at Washington, DC, this 22nd day of March, 2023.

George Christopher Cosby,

Director, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. 2023–06346 Filed 3–24–23; 4:15 pm]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Federal-State Unemployment Insurance Program Data Exchange Standardization

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-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 April 27, 2023.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

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) if the information will be processed and used in a timely manner; (3) 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; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Department is required by the Middle Class Tax Relief and Job Creation Act of 2012 to designate eXtensible Markup Language (XML) as a data exchange standard. The data exchange standards help improve the interoperability of these systems that collect and exchange information for Unemployment Insurance program (UI) administrative purposes. To improve UI program operations by states, the Department has been the facilitating entity for development and implementation of automated systems that states may adopt for efficiently processing claims and improving program integrity. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 6, 2022 (87 FR 60710).

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–ETA.

Title of Collection: Federal-State Unemployment Insurance Program Data Exchange Standardization.

OMB Control Number: 1205–0510.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 15.

Total Estimated Number of Responses: 15.

Total Estimated Annual Time Burden: 1,800 hours.

Total Estimated Annual Other Costs Burden: $299,244.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: March 22, 2023.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2023–06336 Filed 3–27–23; 8:45 am]

BILLING CODE 4510–FN–P

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities: Renewal of a Currently Approved Information Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Merit Systems Protection Board.

ACTION: 60-Day notice and request for comments.

SUMMARY: The Merit Systems Protection Board (MSPB), as part of its continuing effort to reduce paperwork and respondent burden, is seeking a three-year renewal, without change, from the Office of Management and Budget (OMB), of a currently approved Information Collection Request (ICR) entitled: ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' and identified by OMB Control No. 3124–0015, as required by the Paperwork Reduction Act of 1995 (PRA). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. MSPB is soliciting comments on this renewal, without change, of a previously approved collection set to expire on May 31, 2023. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to the OMB.

DATES: Consideration will be given to all comments received by May 30, 2023.

ADDRESSES: Submit comments by using only one of the following methods:

(1) *Email.* Submit comments to *privacy@mspb.gov.*

(2) *Mail.* Submit comments to D. Fon Muttamara, Chief Privacy Officer, Office of the Clerk of the Board, Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419.

(3) *Fax.* Submit comments to (202) 653–7130.

All comments must reference OMB Control No. 3124–0015. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to MSPB's website (*www.mspb.gov*) and will include any personal information you provide. Therefore, submitting this information makes it public.

FOR FURTHER INFORMATION CONTACT: D. Fon Muttamara, Chief Privacy Officer, at *privacy@mspb.gov.* You may submit written questions to the Office of the Clerk of the Board by any of the following methods: by email to *privacy@mspb.gov,* or by mail to Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419. Please include OMB Control No. 3124–0015 with your questions.

SUPPLEMENTARY INFORMATION: MSPB intends to seek a three-year renewal, without change, of a currently approved information collection ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery,'' OMB Control No. 3124–0015.

The proposed information collection activity provides a means to obtain qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with MSPB's commitment to improving service delivery. Qualitative feedback is information that provides useful insights on perceptions and opinions but are not statistical surveys that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between MSPB and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on MSPB's services will be unavailable.

The MSPB will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;
- Any collection is targeted to the solicitation of opinions from respondents who have experience with

the program or may have experience with the program in the near future;

• Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

• Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of MSPB;

• Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

• Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 3124–0015.

Type of Information Collection: Renewal, without change, of a currently approved information collection.

ICR Status: This ICR is currently scheduled to expire on May 31, 2023. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number.

Abstract of Proposed Collection: This collection is part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery and provides a means to obtain qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with MSPB's commitment to improving service delivery. Responses to any collection of information under this ICR are voluntary.

Affected Public: Individuals and Households; Businesses and Organizations.

Estimated Total Number of Respondents: 600.

Estimated Frequency of Responses: Once per year.

Estimated Total Average Number of Responses for Each Respondent: Once per year.

Estimated Total Annual Burden Hours: 49.8.

Estimated Total Cost: $1,887.42.

Comments: Comments should be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to: (a) evaluate whether the collection of information is necessary for the proper performance of the functions of MSPB, including whether the information shall have practical utility; (b) evaluate the accuracy of MSPB's estimate of the burden of the collection of information; (c) enhance the quality, utility, and clarity of the information to be collected; (d) 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) evaluate the estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Jennifer Everling,

Acting Clerk of the Board.

[FR Doc. 2023–06348 Filed 3–27–23; 8:45 am]

BILLING CODE 7400–01–P

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Reinstatement and Revision of a Previously Approved Information Collection; Comment Request

AGENCY: Merit Systems Protection Board.

ACTION: 60-Day notice and request for comments.

SUMMARY: The U.S. Merit Systems Protection Board (MSPB) is seeking to reinstate and revise a previously approved information collection in accordance with the Paperwork Reduction Act (PRA). The Information Collection Request (ICR) will be submitted to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act (PRA) of 1995 for review and clearance. This information collection, entitled, Customer Surveys, OMB Control No. 3124–0012, is part of MSPB's efforts to improve customer service delivery. The information collection instruments consist of short customer-focused surveys distributed through Qualtrics, MSPB's survey platform. In accordance with agency regulations, MSPB is requesting public comments. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: Consideration will be given to all comments received by May 30, 2023.

ADDRESSES: Submit comments by using only one of the following methods:

(1) *Email.* Submit comments to *privacy@mspb.gov.*

(2) *Mail.* Submit comments to D. Fon Muttamara, Chief Privacy Officer, Office of the Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419.

(3) *Fax.* Submit comments to (202) 653–7130.

All comments must reference OMB Control No. 3124–0012. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to MSPB's website (*www.mspb.gov*) and will include any personal information you provide. Therefore, submitting this information makes it public.

FOR FURTHER INFORMATION CONTACT: D. Fon Muttamara, Chief Privacy Officer, at

privacy@mspb.gov. You may submit written questions to the Office of the Clerk of the Board by any of the following methods: by email to *privacy@mspb.gov* or by mail to Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street NW, Washington, DC 20419. Please reference OMB Control No. 3124–0012 with your questions.

SUPPLEMENTARY INFORMATION: MSPB intends to request approval for a reinstatement and revision of a previously approved information collection and seeks a three-year renewal of its MSPB's Generic Clearance Request for Voluntary Customer Surveys, OMB Control No. 3124–0012. Executive Order 12862, Setting Customer Service Standards, mandates that agencies identify their customers and survey them to determine the kind and quality of services they want and their level of satisfaction with existing services. In addition, OMB Circular A–11, Part 6, Section 280—Managing Customer Experience and Improving Service Delivery, provides guidelines for gathering customer feedback. More recently, the 21st Century Integrated Digital Experience Act (IDEA) requires agencies to use quantitative data from their public-facing websites to improve digital service delivery (Pub. L. 115–336).

Customers and stakeholders include persons who file appeals with MSPB on agency action taken against them (appellants), their representatives, and representatives of the agency which took the action; and Federal officials and members of the public (academicians, researchers, consultants, and web users) who read and use the findings of reports issued by MSPB's Office of Policy and Evaluation (OPE) or who are interested in MSPB's role in overseeing the Office of Personnel Management.

Over the past several years, OPE has used customer satisfaction surveys to evaluate how well MSPB is serving its customers in terms of their perceptions of agency timeliness, fairness, accessibility, and sensitivity in deciding appeals. OPE has also used customer surveys to determine the usefulness of reports issued. As a result of the survey feedback, OPE has established baseline performance measures for both appeals processing and merit systems review responsibilities. OPE has instituted a number of changes to both these processes as a result of feedback obtained from stakeholders. OPE plans to use customer surveys periodically over the next three years to measure the success of changes and to attempt to identify additional areas where improvements can be made. Stakeholder views are important measures which may be used to report agency performance under the Government Results and Performance Act (GPRA) as amended by the GPRA Modernization Act of 2010.

Title: Agency Information Collection Activities; Reinstatement and Revision of a Previously Approved Information Collection.

OMB Number: 3124–0012.

Type of Information Collection: This is a request for reinstatement and revision of a previously approved information collection.

ICR Status: MSPB intends to request approval for reinstatement and revision of a previously approved information collection from the OMB under the PRA of 1995. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Abstract of Proposed Collection: This collection is part of MSPB's compliance efforts pursuant to Executive Order 12862, Setting Customer Service Standards, which mandates that agencies identify their customers and survey them to determine the kind and quality of services they want and their level of satisfaction with existing services. Responses to any collection of information under this ICR are voluntary.

Affected Public: Individuals and Households; Businesses and Organizations.

Estimated Total Number of Respondents: 600.

Estimated Frequency of Responses: Once per year.

Estimated Total Average Number of Responses for Each Respondent: Once per year.

Estimated Total Annual Burden Hours: 300.

Estimated Total Cost: $11,370.

Comments: Comments should be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to: (a) evaluate whether the collection of information is necessary for the proper performance of the functions of MSPB, including whether the information shall have practical utility; (b) evaluate the accuracy of MSPB's estimate of the burden of the collection of information; (c) enhance the quality, utility, and clarity of the information to be collected; (d) 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) evaluate the estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Jennifer Everling,

Acting Clerk of the Board.

[FR Doc. 2023–06356 Filed 3–27–23; 8:45 am]

BILLING CODE 7400–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 23–025]

Name of Information Collection: Electronic Medical Record for Implementation of TREAT Astronaut Act

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections.

DATES: Comments are due by May 30, 2023.

ADDRESSES: Written comments and recommendations for this information collection should be sent within 60 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 60-day Review-Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Bill Edwards-Bodmer, NASA Clearance Officer, NASA Headquarters, 300 E Street SW, JF0000,

Washington, DC 20546, 757–864–3292, or *b.edwards-bodmer@nasa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The project includes standard use of Electronic Medical Records (EMR) under NASA 10 HIMS regulations at Johnson Space Center (JSC) Occupational Health Branch (OHB) by authorized healthcare providers assigned to, employed by, contracted to, or under partnership agreement with the JSC, OHB. This EMR will be used in support of the TREAT Astronaut Act to generate medical records of medical care, diagnosis, treatment, surveillance examinations (*e.g.,* flight certification, special purpose and health maintenance), and exposure records (*e.g.,* hazardous materials and ionizing radiation). Management and utilization of the EMR at JSC, OHB clinics will be carried out in support of the TREAT Astronaut Act; Public Law 115–10. The TREAT Astronaut Act is subsection 441 within the National Aeronautics and Space Administration Transition Authorization Act of 2017 (115th Congress, *https://www.congress.gov/115/plaws/publ10/PLAW-115publ10.pdf*). The goal is to maintain digital medical records of routine health care, emergency treatment, and scheduled examinations for active or retired astronauts in order to develop a knowledge base and address gaps in services in support of medical monitoring, diagnosis and treatment of conditions associated with human space flight as stated in Public Law 115–10.

II. Methods of Collection

Electronic and paper.

III. Data

Title: Electronic Medical Record for Implementation of TREAT Astronaut Act. (Pub. L. 115–10).

OMB Number: 2700–0171.

Type of review: Reinstatement.

Affected Public: Astronauts and payload specialists.

Estimated Annual Number of Activities: 175.

Estimated Number of Respondents per Activity: 1.

Annual Responses: 175.

Estimated Time per Response: 0.5 hours.

Estimated Total Annual Burden Hours: 87.5.

Estimated Total Annual Cost: $4,375.

IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection. They will also become a matter of public record.

William Edwards-Bodmer,

NASA PRA Clearance Officer.

[FR Doc. 2023–06307 Filed 3–27–23; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Renewal of Agency Information Collection of a Previously Approved Collection; Request for Comments

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice and request for comments.

SUMMARY: The National Credit Union Administration (NCUA) is seeking comments on renewal of Office of Management and Budget (OMB) approval, pursuant to the Paperwork Reduction Act, for the collection of information for Suspicious Activity Reports by Depository Institutions pursuant to the Security Program, Report of Suspected Crimes, Suspicious Transactions, Catastrophic Acts and Bank Secrecy Act Compliance. The information collection is currently authorized by OMB Control Number 3133–0094, which expires on May 31, 2023. This information collection allows NCUA to ensure compliance with regulatory and statutory requirements for adopting and requiring reports of suspicious transactions on a consolidated suspicious activity report (SARs) form.

DATES: Written comments should be received on or before May 30, 2023 to be assured consideration.

ADDRESSES: Interested persons are invited to submit written comments on the information collection to Mahala Vixamar, National Credit Union Administration, 1775 Duke Street, Suite 6038, Alexandria, Virginia 22314; email at *PRAComments@NCUA.gov.*

FOR FURTHER INFORMATION CONTACT: Address requests for additional information to Mahala Vixamar at the address above or telephone (703) 718–1155.

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0094.

Title: Suspicious Activity Report (SAR) by Depository Institutions.

Type of Review: Extension of a currently approved collection.

Abstract: The Financial Crimes Enforcement Network (FinCEN), Department of the Treasury, was granted broad authority to require suspicious transaction reporting under the Bank Secrecy Act (BSA) (31 U.S.C. 5318(g)). FinCEN joined with the bank regulators in adopting and requiring reports of suspicious transactions on a consolidated suspicious activity report (SARs) form. This simplified the process through which banks inform their regulators and law enforcement about suspected criminal activity. In 2011, FinCEN transitioned from industry specific paper forms to one electronically filed dynamic and interactive BSA–SAR for use by all filing institutions. Information about suspicious transactions conducted or attempted by, at, through, or otherwise involving credit unions are collected through FinCEN's BSA E-filing system by credit unions. A SAR is to be filed no later than 30 calendar days from the date of the initial detection of facts that may constitute a basis for filing a SAR. If no suspect can be identified, the period for filing a SAR is extended to 60 days. FinCEN and law enforcement agencies use the information on BSA–SARs and the supporting documentation retained by the banks for criminal investigation and prosecution purposes.

Affected Public: Federally Insured Credit Unions.

Respondents: Any NCUA-supervised institution wishing to obtain an exemption from the Suspicious Activity Report requirements.

Estimated No. of Respondents: 4,760.

Estimated No. of Responses per Respondent: 36.64.

Estimated Total Annual Responses: 174,406.

Estimated Burden Hours per Response: 1.

Estimated Total Annual Burden Hours: 174,406.

Reason for Change: The burden went down because the number of respondents decreased.

Request for Comments: Comments submitted in response to this notice will

be summarized and included in the request for Office of Management and Budget's (OMB) 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 execution 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. 2023–06386 Filed 3–27–23; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice.

DATES: Comments should be received on or before April 27, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by contacting Venetia Eldridge at (703) 518–1564, emailing *PRAComments@ncua.gov,* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0024.

Title: Mergers of Federally-Insured Credit Unions; Voluntary Termination or Conversion of Insured Status, 12 CFR part 708b.

Type of Review: Extension of a currently approved collection.

Abstract: Part 708b of NCUA's rules sets forth the procedural and disclosure requirements for mergers of federally-insured credit unions, conversions from federal share insurance to nonfederal insurance, and federal share insurance terminations. Part 708b is designed to ensure NCUA has sufficient information whether to approve a proposed merger, share insurance conversion, or share insurance termination. It further ensures that members of credit unions have sufficient and accurate information to exercise their vote properly concerning a proposed merger, insurance conversion, or insurance termination. The rule also protects the property interests of members who may lose their federal share insurance due to a merger, share insurance conversion, or share insurance termination.

Affected Public: Private Sector: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 5,352.

OMB Number: 3133–0163.

Title: Privacy of Consumer Financial Information Recordkeeping and Disclosure Requirements. Under the Gramm-Leach-Bliley Act and Regulation P, 12 CFR 1016.

Type of Review: Extension of a currently approved collection.

Abstract: Regulation P (12 CFR 1016) requires credit unions to disclose its privacy policies to customers as well as offer customers a reasonable opportunity to opt out—in whole or in part—of those policies to further restrict the release of their personal financial information to nonaffiliated third parties. Credit unions are required to provide an initial privacy notice to customers that is clear and conspicuous, an annual notice of the privacy policies and practices of the institution, a revised notice to customers if triggered by specific changes to the existing policy, and a notice of the right of the customer to opt out of the institution's information sharing practices. Consumers who choose to exercise their opt-out right document this choice by returning an opt-out form or other permissible method.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 433,620.

OMB Number: 3133–0181.

Type of Review: Extension of currently approved collection.

Title: Registration of Mortgage Loan Originators.

Abstract: The Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act), 12 U.S.C. 5101 *et seq.,* as codified by 12 CFR part 1007, requires an employee of a bank, savings association, or credit union or a subsidiary regulated by a Federal banking agency or an employee of an institution regulated by the Farm Credit Administration (FCA), (collectively, Agency-regulated Institutions) who engages in the business of a residential mortgage loan originator (MLO) to register with the Nationwide Mortgage Licensing System and Registry (Registry) and obtain a unique identifier. Agency-regulated institutions must also adopt and follow written policies and procedures to assure compliance with the S.A.F.E. Act. The Registry is intended to aggregate and improve the flow of information to and between regulators; provide increased accountability and tracking of mortgage loan originators; enhance consumer protections; reduce fraud in the residential mortgage loan origination process; and provide consumers with easily accessible information at no charge regarding the employment history of, and the publicly adjudicated disciplinary and enforcement actions against MLOs.

Affected Public: Private Sector: Not-for-profit institutions; Individuals or households.

Estimated Total Annual Burden Hours: 86,423.

OMB Number: 3133–0187.

Type of Review: Extension currently approved collection.

Title: Reverse Mortgage Products—Guidance for Managing Reputation Risks, 12 CFR 1002, 1005, 1013, and 229.

Abstract: The Reverse Mortgage Guidance sets forth standards intended to ensure that financial institutions effectively assess and manage the compliance and reputation risks associated with reverse mortgage products. The information collection will allow NCUA to evaluate the adequacy of a federally-insured credit union's internal policies and procedures as they relate to reverse mortgage products.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 160.

By Melane Conyers-Ausbrooks, Secretary of the Board, the National

Credit Union Administration, on March 20, 2023.

Dated: March 23, 2023.

Nina DiPadova,

NCUA PRA Clearance Officer.

[FR Doc. 2023–06383 Filed 3–27–23; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering; 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 Engineering (1170) (Hybrid).

DATE AND TIME: April 25, 2023; 10:00 a.m.–5:00 p.m. (Eastern), April 26, 2023; 8:00 a.m.–12:00 p.m. (Eastern).

PLACE: NSF, 2415 Eisenhower Avenue, Alexandria, VA 22314/Hybrid (In-person and Virtual).

TYPE OF MEETING: Open.

CONTACT PERSONS: Don Millard, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–8300.

Additional meeting information, an updated agenda, and registration information will be posted on the advisory committee website at *https://www.nsf.gov/eng/advisory.jsp.*

PURPOSE OF MEETING: To provide advice, recommendations and counsel on major goals and policies pertaining to engineering programs and activities.

Agenda

Tuesday, April 25, 2023; 10:00 a.m.–5:00 p.m. (Eastern)

Directorate for Engineering Report
National Academies report on Advancing Antiracism, Diversity, Equity, and Inclusion in STEMM Organizations: Beyond Broadening Participation
CHIPS and Science Act: Semiconductor Update
Teach Engineering Update
Strategic Recommendations for ENG
Preparation for Discussion with the Director's Office

Wednesday, April 26, 2023; 8:00 a.m.–12:00 p.m. (Eastern)

NSF Budget Update
Reports from Advisory Committee Liaisons
Engineering Research Visioning Alliance Update
Preparation for Discussion with the Director's Office
Perspective from the Director's Office
Strategic Recommendations for ENG

Dated: March 23, 2023.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2023–06362 Filed 3–27–23; 8:45 am]

BILLING CODE 7555–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97186; File No. SR–CboeEDGX–2023–019]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

March 22, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 9, 2023, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') proposes to amend its fee schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/edgx/*), 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

The Exchange proposes to amend its Fee Schedule.[3] Specifically, the Exchange proposes to eliminate the rebate currently provided for the liquidity adding side of Customer-to-Customer orders in Penny and Non-Penny Securities (currently yielding fee codes PC and NC, respectively) and to amend the Fee Schedule so that such orders will be free.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of 16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than 17% of the market share and currently the Exchange represents only approximately 6% of the market share.[4] Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange's Fee Schedule sets forth standard rebates and rates applied per contract. For example, the Exchange currently provides a standard rebate of $0.01 per contract for Customer orders that add or remove liquidity, in both Penny and Non-Penny Securities. The Fee Codes and Associated Fees section of the Fee Schedule also provides for

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on February 1, 2023 (SR–CboeEDGX–2023–008). On March 9, 2023, the Exchange withdrew that filing and submitting this proposal.

[4] *See* Cboe Global Markets U.S. Options Market Monthly Volume Summary (March 6, 2023), available at *https://markets.cboe.com/us/options/market_statistics/.*

certain fee codes associated with certain order types and market participants that provide for various other fees or rebates.

The Exchange no longer wishes to provide a rebate for the liquidity adding side of Customer-to-Customer orders in Penny and Non-Penny Securities and now proposes to amend its Fee Schedule so that such orders will be free. As such, the Exchange also proposes to adopt new fee codes TP and TN, which will apply to the liquidity adding side of Customer-to-Customer (*i.e.,* ''Customer (contra Customer)'') orders in Penny and Non-Penny Securities, respectively; the proposed fee codes assess no fee for such transactions. The Exchange notes that it currently assesses no charge or a marginal charge on other types of Customer transactions. For example, the Exchange does not charge a transaction fee for Complex Customer-to-Customer orders (yielding fee code ZC). The liquidity removing side of Customer-to-Customer orders in Penny and Non-Penny Securities, as well as Customer orders that execute against any Non-Customer as the contra-party in Penny and Non-Penny Securities will still be eligible for the current rebate (*i.e.,* the standard rebate of $0.01 per contract). Accordingly, the Exchange proposes to amend the definition of fee code PC to clarify that such fee code (and corresponding standard rebate) applies to Customer contra Non-Customer orders in Penny Securities, as well as the liquidity removing side of Customer contra Customer orders in Penny Securities. Similarly, the Exchange proposes to amend the definition of fee code NC to clarify that such fee code (and related standard rebate) applies to Customer contra Non-Customer orders in Non-Penny Securities, as well as the liquidity removing side of Customer contra Customer orders in Non-Penny Securities.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[5] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[6] 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)[7] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

As described above, the Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule change reflects a competitive pricing structure that is designed to incentivize market participants to direct their order flow to the Exchange, which the Exchange believes would enhance market quality to the benefit of all market participants. While the Exchange is eliminating a rebate for the liquidity adding side of Customer-to-Customer orders in Penny and Non-Penny Securities, the Exchange believes that providing that the liquidity adding side of the order will instead be free will still continue to incentivize Customer order flow in Penny and Non-Penny Securities as such Customer orders will still not be subject to any transaction fees, which may lead to an increase in liquidity on the Exchange. An overall increase in liquidity benefits all market participants by providing more trading opportunities, which attracts Market Makers. An increase in Market Maker activity in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange also believes the proposed change to assess no charge for the liquidity adding side of Customer-to-Customer orders executed in Penny and Non-Penny Securities is consistent with Section 6(b)(4) of the Act in that the proposal is reasonable, equitable and not unfairly discriminatory. The Exchange believes that eliminating the rebate for the liquidity adding side of Customer-to-Customer orders in Penny and Non-Penny Securities is reasonable because Customers will continue to not be subject to any fees for such transactions. Additionally, the Exchange is not required to maintain this rebate.

Moreover, it is in line with other types of Customer orders for which the Exchange does not assess a fee or provide a rebate. As described above, the Exchange currently does not charge a transaction fee or provide a rebate for various other Customer orders, including Complex Customer-to-Customer orders. Further, Customers executing an order in Penny and Non-Penny Securities with a Non-Customer or Customers on the liquidity removing side of orders executed in Penny and Non-Penny Securities will still be eligible for the current rebate, *i.e.,* a standard rebate of $0.01 per contract.

The Exchange further believes that continuing to not assess any fee to any side of a Customer order regardless of whether they are removing or adding liquidity (as compared to other market participants that must always pay a fee) is equitable and not unfairly discriminatory because, as stated above, the Exchange wishes to incentivize (and at least not discourage) Customer order flow, which can attract liquidity on the Exchange, in turn providing more trading opportunities and attracting Market-Makers to facilitate tighter spreads to the benefit of all market participants. Further, the options industry has a long history of providing preferential pricing to Customers, and the Exchange's current Fee Schedule currently does so in many places, as do the fees structures of multiple other exchanges.[8] Customers executing an order in Penny and Non-Penny Securities will continue to either receive the benefit of a rebate or free transaction, depending on if the order is removing or adding liquidity and whether they are transacting against a Customer or Non-Customer.

The Exchange also believes the proposed changes are reasonable, equitably allocated and not unreasonably discriminatory despite a proposed distinction between fees for Customer orders that add liquidity and those that remove liquidity, regardless of the capacity of the contra party. Particularly, the Exchange believes providing rebates for the liquidity removing side of an order is reasonable, equitable and not unfairly discriminatory because it provides an incentive to bring additional liquidity to the Exchange, thereby promoting price discovery and enhancing order

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *Id.*

[8] *See, e.g.,* EDGX Options Fee Schedule, ''Fee Codes and Associated Fees'', which, for example, provides Customer AIM Agency orders (*i.e.,* orders yielding fee code BC) a rebate and also which assesses no fee (nor provides any rebate) for QCC Agency and Contra Customer orders (*i.e.,* yielding fee codes QA and QC, respectively). *See also* Cboe Options Fees Schedule, Rate Table—All Products Excluding Underlying Symbol List A, which, for example, assesses no fee (nor provides any rebate) for Customer orders in equity options.

execution opportunities for Members. The Exchange believes that not providing a rebate for orders that add liquidity is reasonable, equitable and not unfairly discriminatory because the Exchange must balance the cost of credits for orders that remove liquidity. Further, the Exchange is not proposing to adopt any fee for the liquidity adding side of Customer orders, but rather merely removing the current rebate, which as noted it's not required to maintain.

The Exchange lastly believes that the proposal to make the liquidity adding side of Customer-to-Customer orders free is equitable and not unfairly discriminatory because it will apply equally to all liquidity adding sides of Customer-to-Customer transactions in Penny and Non-Penny Securities, *i.e.,* all Customers will be assessed the same amount (no fee) for these transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In particular, the Exchange believes the proposed rule change does not impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Particularly, the proposal to eliminate the rebate for the liquidity adding side of Customer-to-Customer orders executed in Penny and Non-Penny Securities will apply uniformly to all Customers transacting in Penny and Non-Penny Securities. As described above, while no fee will continue to be assessed for Customers, different market participants have different circumstances, such as the fact that preferential pricing to Customers is a long-standing options industry practice which serves to enhance Customer order flow, thereby attracting Market-Makers to facilitate tighter spreads and trading opportunities to the benefit of all market participants. In addition to this, the Exchange notes that it currently assesses no charge and provides no rebate for various other types of Customer orders that execute against another Customer as a contra party.

The Exchange also believes the proposed rule change does not impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Members have numerous alternative venues they may participate on and direct their order flow, including 15 other options exchanges. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 17% of the market share. Therefore, no exchange possesses significant pricing power in the execution of order flow. Indeed, participants can readily choose to send their orders to other exchanges if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2)[10] thereunder.

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2023–019 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–CboeEDGX–2023–019. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change.

Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeEDGX–2023–019 and should be submitted on or before April 18, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06323 Filed 3–27–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97183; File No. SR–CFE–2023–001]

Self-Regulatory Organizations; Cboe Futures Exchange, LLC; Notice of a Filing of a Proposed Rule Change To Update Regulatory Independence Policies

March 22, 2023.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 10, 2023 Cboe Futures Exchange, LLC (''CFE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by CFE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CFE also has filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). CFE filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'')[2] on March 10, 2023.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

CFE is proposing to update CFE Policy and Procedure XIII (Cboe Global Markets, Inc. and Subsidiaries Regulatory Independence Policy for Regulatory Group Personnel) (''P&P XIII'') and CFE Policy and Procedure XIV (Cboe Global Markets, Inc. and Subsidiaries Regulatory Independence Policy for Non-Regulatory Group Personnel) (''P&P XIV'') (collectively, ''Regulatory Independence Policies'' or ''Policies'') of the Policies and Procedures Section of the CFE Rulebook.

The scope of this filing is limited solely to the application of the proposed rule change to security futures that may be traded on CFE. Although no security futures are currently listed for trading on CFE, CFE may list security futures for trading in the future. The text of the proposed rule change is attached as Exhibit 4 to the filing but is not attached to the publication of this notice.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CFE 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. CFE 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, Proposed Rule Change

1. Purpose

CFE is a subsidiary of Cboe Global Markets, Inc. (''CGM''). CGM, CFE, and other U.S. trading venue subsidiaries of CGM previously adopted the Regulatory Independence Policies and make updates to the Regulatory Independence Policies from time to time. The Regulatory Independence Policies are incorporated into the Policies and Procedures Section of the CFE Rulebook in P&P XIII and P&P XIV.

The updates to the Regulatory Independence Policies being made by the proposed rule change include the following:

The titles of the Regulatory Independence Policies are proposed to be updated. The title of the Regulatory Independence Policy in P&P XIII is proposed to be Cboe Global Markets, Inc. and Subsidiaries Regulatory Independence Policy for Cboe U.S. Exchanges (Regulatory Group Personnel Version) and the title of the Regulatory Independence Policy in P&P XIV is proposed to be Cboe Global Markets, Inc. and Subsidiaries Regulatory Independence Policy for Cboe U.S. Exchanges (Non-Regulatory Group Personnel Version). The titles of the Regulatory Independence Policies are proposed to be updated in order to reflect that the Policies are applicable to Cboe U.S. Exchanges, as further described in the following paragraph.

Similarly, the provisions of the Regulatory Independence Policies are proposed to be revised to make clear that they apply to Cboe U.S. Exchanges. Cboe U.S. Exchanges under the Policies include Cboe Exchange, Inc., Cboe C2 Exchange, Inc., Cboe BZX Exchange, Inc., Cboe BYX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., CFE, Cboe Digital Exchange, LLC (''Cboe Digital''), and Cboe SEF, LLC (''Cboe SEF''). All of these trading venues are currently referenced in the Regulatory Independence Policies with the exception of Cboe Digital.

The Regulatory Independence Policies are proposed to be updated to apply to Cboe Digital. Cboe Digital is a designated contract market (''DCM'') registered with the CFTC that became a subsidiary of CGM during 2022.

Each Regulatory Independence Policy is proposed to be revised to specifically refer to the other Regulatory Independence Policy as a companion version of that Regulatory Independence Policy. This proposed change is intended (i) to make clear to anyone reviewing the Regulatory Independence Policy applicable to Regulatory Group personnel that there is a related Regulatory Independence Policy with similar provisions that applies to Non-Regulatory Group personnel and (ii) to make clear to anyone reviewing the Regulatory Independence Policy applicable to Non-Regulatory Group personnel that there is a related Regulatory Independence Policy with similar provisions that applies to Regulatory Group personnel.

The Regulatory Independence Policies are proposed to be revised to update the definition of the Regulatory Group under the Policies to refer to those employees supporting the regulatory functions of the Cboe U.S. Exchanges and to indicate that those employees include (i) all regulatory employees in the Regulatory Division for the Cboe U.S. Exchanges; (ii) any employee of any Cboe Company (as defined below) who is performing services for the Regulatory Group, including for example, when providing such services, Legal Division and Compliance Department employees as well as systems and database personnel who are assigned to work on matters for the Regulatory Group; and (iii) employees of a regulatory services provider providing regulatory services for a Cboe U.S. Exchange pursuant to any Regulatory Services Agreement (''RSA''). All other employees of any Cboe Company are

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(7).

[2] 7 U.S.C. 7a–2(c).

considered non-Regulatory Group Personnel under the Policies.

The Regulatory Independence Policies are proposed to be revised to add references to Cboe Digital where appropriate and to note regulatory provisions that CFE, Cboe Digital, and Cboe SEF are required to enforce and how those obligations apply to each of those entities. As proposed to be revised in this respect, the Regulatory Independence Polices would provide that: Under the CEA, CFE, Cboe Digital, and Cboe SEF are required to enforce compliance by their trading privilege holders and participants and their related parties with the CEA, the regulations of the CFTC, and, to the extent applicable, that exchange's rules, certain rules of the Federal Reserve Board (for CFE), certain rules of The Options Clearing Corporation (for CFE) or Cboe Clear Digital, LLC (for Cboe Digital), and the Act, and rules and regulations promulgated pursuant to the SEA (for CFE). These proposed additions of references to Cboe Digital in the Regulatory Independence Policies do not substantively change the descriptions in the Policies of the regulatory provisions that CFE is required to enforce and how those obligations apply to CFE.

The Regulatory Independence Policies are proposed to be updated to define the term Member under the Policies to encompass a trading permit holder, trading privilege holder, permit holder, member, participant, or other person or entity with trading privileges on a market of a Cboe U.S. Exchange. The Regulatory Independence Policies are also proposed to be revised to utilize the term Member in place of the term trading permit holder since the term Member is a broader term and captures the various types of members on the Cboe U.S. Exchanges.

The Regulatory Independence Policies are proposed to be revised to specifically note that the Cboe U.S. Exchanges may enter into RSAs with regulatory service providers.

The Regulatory Independence Policies are proposed to be amended to reference the Cboe U.S. Exchanges in various provisions within the Policies instead referencing a Cboe Company in instances in which the applicable provision is intended to refer more specifically to the Cboe U.S. Exchanges instead of to the broader term Cboe Company. A Cboe Company includes CGM, the Cboe U.S. Exchanges, and any other subsidiary or affiliate of CGM. The proposed rule change also includes other proposed revisions which reference both the Cboe U.S. Exchanges and any other Cboe Company where the applicable provision is meant to apply to both. These proposed amendments are proposed clarifying changes and are not intended to alter the current substantive provisions of the Regulatory Independence Policies. Instead, they are intended to use more precise terminology and to further clarify which entities various provisions are intended to reference. For example, one of these provisions currently reads: All regulatory decisions shall be made without regard to the actual or perceived business interests of the Cboe Companies or any of their trading permit holders. As it is proposed to be revised, this provision would read: All regulatory decisions shall be made without regard to the actual or perceived business interests of the Cboe U.S. Exchanges and any other Cboe Companies or any of the Cboe U.S. Exchange Members.

The Regulatory Independence Policies are proposed to be revised to make clear that regulatory matters under the Policies include, among other things, any regulatory investigation, examination, inquiry, or complaint that is being investigated or brought by the CFTC.

The Regulatory Independence Policies are proposed to be updated to refer to the Regulatory Oversight Committees of the Cboe U.S. Exchanges instead of to Regulatory Oversight and Compliance Committees, which was a name for those committees that was previously used by some of the Cboe U.S. Exchanges.

The Regulatory Independence Policies are proposed to be amended to provide that regulatory matters may be discussed with the CGM Risk Committee in connection with its oversight of CGM's risk assessment and risk management, including risks related to Cboe U.S. Exchanges' compliance with applicable laws, regulations, and policies. Similarly, the Regulatory Independence Policies are proposed to be amended to provide that the Chief Regulatory Officer of the applicable Cboe U.S. Exchange will have direct access to the CGM Risk Committee Chair to discuss matters related to oversight of CGM's risk assessment and risk management, including risks related to Cboe U.S. Exchanges' compliance with applicable laws, regulations, and policies. Similar provisions currently apply with respect to the CGM Board and CGM Audit Committee and references to the CGM Risk Committee and CGM Risk Committee Chair are proposed to be added to the Policies in this regard in light of the role of the CGM Risk Committee with regard to risk assessment and risk management.

The Regulatory Independence Policies are also proposed to be updated to include various non-substantive and technical revisions which do not affect the content and substance of the Policies. For example, the Securities Exchange Act of 1934 is currently referred to in the Regulatory Independence Policies as the Securities and Exchange Act of 1934 and is currently defined in short form in the Policies as the ''Act''. The Regulatory Independence Policies are proposed to be revised to correct the references to that statute by removing the word ''and'' from within the current references to the full name of that statute and by also changing the defined term for that statute within the Polices from the ''Act'' to the ''SEA''. As another example, bullet point lists within the Regulatory Independence Policies are proposed to be revised so that each bullet point within the lists starts with a lower case word instead of a capitalized word.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Sections 6(b)(1)[4] and 6(b)(5)[5] in particular, in that it is designed:

- to enable the Exchange to enforce compliance by its Trading Privilege Holders and persons associated with its Trading Privilege Holders with the provisions of the rules of the Exchange,
- to prevent fraudulent and manipulative acts and practices,
- 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.

The proposed rule change retains the current substantive provisions of the Regulatory Independence Policies within CFE's rules while updating the Policies to clarify that they apply to the Cboe U.S. Exchanges, which now includes Cboe Digital, and to make clarifying updates to titles, terms, definitions, and provisions within the Policies where appropriate and necessary. By retaining the current substantive provisions of the Regulatory Independence Policies within CFE's rules, the proposed rule change

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(1).

[5] 15 U.S.C. 78f(b)(5).

contributes to minimizing conflicts of interest in the decision-making process of CFE and to the preservation of the independence of the Exchange's Regulatory Group as it performs regulatory functions for the Exchange. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory in that the Regulatory Independence Policies apply equally in relation to all CFE Trading Privilege Holders.

B. Self-Regulatory Organization's Statement on Burden on Competition

CFE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the proposed rule change contributes to CFE's ability to carry out its responsibilities as a self-regulatory organization. The Exchange believes that the proposed rule change will not impose any undue burden on competition because the Regulatory Independence Policies apply equally in relation to all CFE Trading Privilege Holders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change will become operative on March 24, 2023. At any time within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) of the Act.[6]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CFE–2023–001 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–CFE–2023–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CFE–2023–001, and should be submitted on or before April 18, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06321 Filed 3–27–23; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78s(b)(1).

[7] 17 CFR 200.30–3(a)(73).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–805, OMB Control No. 3235–0756]

Proposed Collection; Comment Request; Extension: Rule 147(f)(1)(iii) Written Representation as to Purchaser Residency

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 147 is a safe harbor under the Securities Act Section 3(a)(11)(15 U.S.C. 77c(a)(11)) exemption from registration. To qualify for the safe harbor, Rule 147(f)(1)(iii) (17 CFR 230.147) will require the issuer to obtain from the purchaser a written representation as to the purchaser's residency. Under Rule 147, the purchaser in the offering must be a resident of the same state or territory in which the issuer is a resident. While the formal representation of residency by itself is not sufficient to establish a reasonable belief that such purchasers are in-state residents, the representation requirement, together with the reasonable belief standard, may result in better compliance with the rule and maintaining appropriate investor protections. The representation of residency is not provided to the Commission. Approximately 700 respondents provide the information required by Rule 147(f)(1)(iii) at an estimated 2.75 hours per response for a total annual reporting burden of 1,925 hours (2.75 hours × 700 responses).

Written comments are invited on: (a) whether this 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) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection

techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 30, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 23, 2023.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–06411 Filed 3–27–23; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–97184; File No. SR–FINRA–2023–005]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rule 1240.01 To Provide Eligible Individuals Another Opportunity To Elect To Participate in the Maintaining Qualifications Program

March 22, 2023.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 14, 2023, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rule 1240.01 (Eligibility of Other Persons to Participate in the Continuing Education Program Specified in Paragraph (c) of this Rule) to provide eligible individuals another opportunity to elect to participate in the Maintaining Qualifications Program (''MQP'').

Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

1200. REGISTRATION AND QUALIFICATION

* * * * *

1240. Continuing Education

This Rule prescribes requirements regarding the continuing education of registered persons. The requirements shall consist of a Regulatory Element and a Firm Element as set forth below. This Rule also sets forth continuing education programs through which specified persons may maintain their qualification in a representative or principal registration category following the termination of that registration category.

(a) through (c) No Change.

• • • Supplementary Material: ----------

.01 Eligibility of Other Persons to Participate in the Continuing Education Program Specified in Paragraph (c) of this Rule. A person registered in a representative or principal registration category with FINRA within two years immediately preceding March 15, 2022 shall be eligible to participate in the continuing education program under paragraph (c) of this Rule, provided that he or she satisfies the conditions set forth in paragraphs (c)(1) and (c)(3) through (c)(6) of this Rule. In addition, a person participating in the Financial Services Affiliate Waiver Program under Rule 1210.09 immediately preceding March 15, 2022 shall be eligible to participate in the continuing education program under paragraph (c) of this Rule, provided that he or she satisfies the conditions set forth in paragraphs (c)(3), (c)(5) and (c)(6) of this Rule. Persons eligible under this Supplementary Material .01 shall make their election to participate in the continuing education program under paragraph (c) of this Rule *either (1) between January 31, 2022, and March 15, 2022; or (2) between March 15, 2023, and December 31, 2023* [by March 15, 2022]. If such persons elect to participate in the continuing education program, *their participation period shall also be for a period of five years following the termination of their registration categories, as with other participants under paragraph (c) of this Rule* [FINRA shall adjust their participation period by deducting from that period the amount of time that has lapsed between the date that such persons terminated their registration categories and March 15, 2022]. *In addition, eligible persons who elect to participate in the continuing education program between March 15, 2023, and December 31, 2023, must complete any prescribed 2022 and 2023 continuing education content by March 31, 2024.*

.02 No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 21, 2021, the Commission approved a proposed rule change to amend FINRA Rules 1210 (Registration Requirements) and 1240 (Continuing Education Requirements) to, among other things, provide eligible individuals who terminate any of their representative or principal registration categories the option of maintaining their qualification for any terminated registration categories by completing annual continuing education through a new program, the MQP.[4]

Prior to the MQP, individuals whose registrations as representatives or principals had been terminated for two or more years could reregister as representatives or principals only if they requalified by retaking and passing the applicable representative- or principal-level examination or if they obtained a waiver of such examination(s) (the ''two-year qualification period''). The MQP provides these individuals an alternative means of staying current on their regulatory and securities knowledge following the termination of a registration.[5] Specifically, the MQP

[4] *See* Securities Exchange Act Release No. 93097 (September 21, 2021), 86 FR 53358 (September 27, 2021) (Order Approving File No. SR–FINRA–2021–015).

[5] The MQP does not eliminate the two-year qualification period. Thus, eligible individuals who elect not to participate in the MQP can continue to avail themselves of the two-year qualification period (*i.e.,* they can reregister within two years of terminating a registration category without having to requalify by examination or having to obtain an examination waiver).

provides eligible individuals a maximum of five years following the termination of a representative or principal registration category to reregister without having to requalify by examination or having to obtain an examination waiver, subject to satisfying the conditions and limitations of the MQP, including the annual completion of all prescribed continuing education.

Under FINRA Rule 1240.01, the MQP has a look-back provision that, subject to specified conditions, extended the option to participate in the MQP to individuals who: (1) were registered as a representative or principal within two years immediately prior to March 15, 2022 (the implementation date of the MQP); and (2) individuals who were participating in the Financial Services Affiliate Waiver Program (''FSAWP'') under FINRA Rule 1210.09 (Waiver of Examinations for Individuals Working for a Financial Services Industry Affiliate of a Member) immediately prior to March 15, 2022 (collectively, ''Look-Back Individuals'').[6]

In *Regulatory Notice* 21–41 (November 17, 2021), FINRA announced that Look-Back Individuals who wanted to take part in the MQP were required to make their election between January 31, 2022, and March 15, 2022 (the ''First Enrollment Period''). In addition to the announcement in *Regulatory Notice* 21–41, FINRA notified the Look-Back Individuals about the MQP and the First Enrollment Period via two separate mailings of postcards to their home addresses and communications through their FINRA Financial Professional Gateway (''FinPro'') accounts.[7]

Shortly after the First Enrollment Period had ended, a number of Look-Back Individuals contacted FINRA and indicated that they had only recently become aware of the MQP. FINRA has received anecdotal information that a number of these individuals may not have learned of the MQP, or the First Enrollment Period, in a timely manner, or at all, due to communication and operational issues.[8] In addition, the original six-week enrollment period may not have provided Look-Back Individuals with sufficient time to evaluate whether they should participate in the MQP. For these reasons, FINRA is proposing to amend Rule 1240.01 to provide Look-Back Individuals a second opportunity to elect to participate in the MQP (the ''Second Enrollment Period'').[9] The Second Enrollment Period will be between March 15, 2023, and December 31, 2023. In addition, the proposed rule change requires that Look-Back Individuals who elect to participate in the MQP during the Second Enrollment Period complete any prescribed 2022 and 2023 MQP content by March 31, 2024.[10]

FINRA believes that Look-Back Individuals generally have greater awareness of the MQP, including due to news coverage, since the program's launch.[11] As part of the rollout of the Second Enrollment Period, FINRA will also reach out to any Look-Back Individuals who specifically expressed an interest in participating in the MQP on or after March 15, 2022.[12] To further help ensure that all Look-Back Individuals are aware of the MQP as well as the availability of the Second Enrollment Period, FINRA plans to engage in a robust second communication campaign. Specifically, FINRA plans to send postcards to their home addresses and deliver the information to their FinPro accounts, similar to the first campaign. In addition, FINRA plans to engage in active outreach to journalists and social and media outlets to further enhance public awareness.

FINRA believes that greater public awareness of the MQP and FINRA's additional outreach efforts, coupled with a nine-month enrollment period, should help ensure that all Look-Back Individuals are aware of the MQP and the availability of the Second Enrollment Period and should provide them with ample time to decide whether to participate in the MQP.

Look-Back Individuals who elect to enroll during the Second Enrollment Period would need to notify FINRA of their election to participate in the MQP through a manner to be determined by FINRA.[13] FINRA also notes that Look-Back Individuals who elect to participate in the MQP during the Second Enrollment Period would continue to be subject to all of the other MQP eligibility and participation conditions. For example, as clarified in the proposed rule change, Look-Back Individuals electing to participate during the Second Enrollment Period would have only a maximum of five years following the termination of a registration category in which to reregister without having to requalify by examination or having to obtain an examination waiver.[14]

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing. The operative date will be the date of filing of the proposed rule change, if the SEC grants the waiver.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[15] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in

[6] The FSAWP is a waiver program for eligible individuals who have left a member firm to work for a foreign or domestic financial services affiliate of a member firm. FINRA stopped accepting new participants for the FSAWP beginning on March 15, 2022; however, individuals who were already participating in the FSAWP prior to that date had the option of continuing in the FSAWP.

[7] Look-Back Individuals were able to notify FINRA of their election to participate in the MQP through their FinPro accounts.

[8] This may have been a result of the timing of FINRA's announcements relating to the MQP, which coincided with the holiday season and the transition to the New Year. Further, given that Look-Back Individuals were out of the industry at the time of these announcements, it was unlikely that they would have learned of the MQP, or the First Enrollment Period, through informal communication channels.

[9] The current rule text also provides that if Look-Back Individuals elect to participate in the MQP, their five-year participation period will be adjusted by deducting from that period the amount of time that has lapsed between the date that they terminated their registrations and March 15, 2022. To reflect the availability of the Second Enrollment Period, the proposed rule change clarifies that for all Look-Back Individuals who elect to participate in the MQP, their participation period would also be for a period of five years following the termination of their registration categories, as with other MQP participants.

[10] Look-Back Individuals who elect to enroll in the MQP during the Second Enrollment Period would also need to pay the annual program fee of $100 for both 2022 and 2023 at the time of their enrollment.

[11] *See, e.g.,* Joanne Cleaver, *FINRA Sets Big Change in Motion with New Option for Licensing Grace Period,* InvestmentNews (June 23, 2022), *https://www.investmentnews.com/finra-sets-big-change-in-motion-with-new-option-for-licensing-grace-period-222942.*

[12] As noted, a number of Look-Back Individuals contacted FINRA directly on or after March 15, 2022. FINRA will reach out to these individuals to make them aware of the availability of the Second Enrollment Period.

[13] FINRA anticipates that Look-Back Individuals will make their selection to enroll in the MQP during the Second Enrollment Period through their FinPro accounts. *See* Enrolling in the MQP, *https://www.finra.org/registration-exams-ce/finpro/mqp* (describing the MQP enrollment process). FINRA will inform Look-Back Individuals if it determines to provide an alternative enrollment method.

[14] For example, if a Look-Back Individual terminated a registration category on May 1, 2020, and elects to participate in the MQP on December 1, 2023, the individual's maximum participation period would be five years starting on May 1, 2020, and ending no later than May 1, 2025. If the individual does not reregister with a member firm by May 1, 2025, the individual would need to requalify by examination or obtain an examination waiver in order to reregister after that date.

[15] 15 U.S.C. 78*o*–3(b)(6).

general, to protect investors and the public interest. FINRA believes that providing Look-Back Individuals a second opportunity to elect to participate in the MQP is warranted because participation in the MQP would reduce unnecessary impediments to requalification for these individuals without diminishing investor protection. In addition, the proposed rule change is consistent with other goals, such as the promotion of diversity and inclusion in the securities industry by attracting and retaining a broader and diverse group of professionals. The MQP also allows the industry to retain expertise from skilled individuals, providing investors with the advantage of greater experience among the individuals working in the industry. FINRA believes that providing Look-Back Individuals a second opportunity to elect to participate in the MQP will further these goals and objectives.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Further, FINRA provided an extensive economic impact assessment relating to the MQP as part of the original rule filing.[16]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

FINRA has filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. FINRA has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. FINRA has indicated that immediate operation of the proposed rule change is appropriate because it would help to ensure that there is sufficient time for FINRA to provide adequate notification of the Second Enrollment Period to Look-Back Individuals, as well as for these individuals to consider whether they wish to participate in the program before the December 31, 2023 deadline.[21] FINRA intends to engage in outreach efforts and provide a nine-month enrollment period in order to ensure that all Look-Back Individuals are aware of the MQP and the availability of the Second Enrollment Period. For these reasons, the Commission believes that waiver of the 30-day operative delay for this proposal 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.[22]

At any time within 60 days of the filing of such 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)[23] 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 (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2023–005 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–FINRA–2023–005. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written 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 FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2023–005 and should be submitted on or before April 18, 2023.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Sherry R. Haywood,

Assistant Secretary.

[FR Doc. 2023–06322 Filed 3–27–23; 8:45 am]

BILLING CODE 8011–01–P

[16] *See* Securities Exchange Act Release No. 92183 (June 15, 2021), 86 FR 33427 (June 24, 2021) (Notice of Filing of File No. SR–FINRA–2021–015).

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] *See supra* Item II.

[22] 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).

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–806, OMB Control No. 3235–0757]

Proposed Collection; Comment Request; Extension: Rule 147A(f)(1)(iii) Written Representation as to Purchaser Residency

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 147A(f)(1)(iii) (17 CFR 230.147A(f)(1)(iii)) requires the issuer to obtain from the purchaser a written representation as to the pruchase's residency in order to qualify for safe harbor under Securities Act Rule 147A (17 CFR 230.147A). Rule 147A is an exemption from registration under Securities Act Section 28 (15 U.S.C. 77z–3). Under Rule 147A, the purchaser in the offering must be a resident of the same state or territory in which the issuer is a resident. While the formal representation of residency by itself is not sufficient to establish a reasonable belief that such purchasers are in-state residents, the representation requirement, together with the reasonable belief standard, may result in better compliance with the rule and maintaining appropriate investor protections. The representation of residency is not provided to the Commission. Approximately 700 respondents provide the information required by Rule 147A(f)(1)(iii) at an estimated 2.75 hours per response for a total annual reporting burden of 1,925 hours (2.75 hours × 700 responses).

Written comments are invited on: (a) whether this 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) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication by May 30, 2023.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct your written comment to David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: March 23, 2023.

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2023–06410 Filed 3–27–23; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 12026]

Foreign Affairs Policy Board Meeting Notice

ACTION: Closed meeting.

In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the Department of State announces a meeting of the Foreign Affairs Policy Board to take place on April 24–25, 2023, at the Department of State, Washington, DC.

The Foreign Affairs Policy Board will review and assess: (1) Engagement with cities and states to promote sub-national diplomacy; (2) Emerging technologies and implications for Foreign Policy; (3) Economic trends with implications for the United States' role abroad; and (4) Placing Current Geopolitical Competition in Historical and Strategic Context. Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App § 10(d), and 5 U.S.C. 552b(c)(1), it has been determined that this meeting will be closed to the public as the Board will be reviewing and discussing matters properly classified in accordance with E.O. 13526.

For more information, contact Timothy Peltier at (202) 647–2236 or *peltierte@state.gov.*

Timothy Peltier,

Designated Federal Officer, Office of Policy Planning, Department of State.

[FR Doc. 2023–06315 Filed 3–27–23; 8:45 am]

BILLING CODE 4710–10–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 1239 (Sub-No. 3X)]

City of Tacoma, Department of Public Utilities, d/b/a Tacoma Rail—Discontinuance of Service Exemption—in Pierce County, Wash.

On March 8, 2023, the City of Tacoma, Wash., Department of Public Utilities d/b/a Tacoma Rail (the City) filed a petition with the Surface Transportation Board (the Board) under 49 U.S.C. 10502 for exemption from the prior approval requirements of 49 U.S.C. 10903 to discontinue common carrier service over approximately 3.5 miles of rail line extending from milepost 2.11 at East C Street (USDOT Grade Crossing Inventory Number 396640U) to milepost 5.61 at McKinley Avenue (USDOT Grade Crossing Inventory Number No. 396659L), in the City, Pierce County (the Line). The Line traverses U.S. Postal Service Zip Codes 98421, 98404, and 98418.

According to the City, the Line has moved only four local carloads in the past seven years—one carload in April 2021 and three carloads in 2016. The City states that it would not expect carload volumes to or from the sole customer on the Line, Tacoma Steel, to increase significantly if the Line were to remain active. According to the City, it has advised Tacoma Steel of its plan to cease operations on the Line and the City expects that Tacoma Steel will not object to this petition for discontinuance authority. The City also states that no overhead traffic currently exists on the Line, and that, if such traffic did exist, it could be handled over other through routes.

The City states that, to the best of its information and belief, the Line does not contain any federally granted rights-of-way and that it will promptly make available to those requesting it any documentation in its possession relevant to the foregoing statement.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 26, 2023.

Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be environmental review during any subsequent

abandonment, this discontinuance does not require an environmental review. *See* 49 CFR 1105.6(c)(5), 1105.8(b).

Any offer of financial assistance (OFA) to subsidize continued rail service under 49 CFR 1152.27(b)(2) will be due no later than July 6, 2023, or 10 days after service of a decision granting the petition for exemption, whichever occurs sooner.[1] Persons interested in submitting an OFA must first file a formal expression of intent to file an offer by April 7, 2023, indicating the intent to file an OFA for subsidy and demonstrating that they are preliminarily financially responsible. *See* 49 CFR 1152.27(c)(1)(i).

All filings in response to this notice must refer to Docket No. AB 1239 (Sub-No. 3X) and must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on the City's representative, Robert A. Wimbish, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606–3208. Replies to the petition are due by April 17, 2023.

Persons seeking further information concerning discontinuance procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Office of Environmental Analysis at (202) 245–0294. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

Board decisions and notices are available at *www.stb.gov.*

Decided: March 21, 2023.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

Raina White,

Clearance Clerk.

[FR Doc. 2023–06361 Filed 3–27–23; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2023–0020]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on February 13, 2023, the Regional Transportation District RTDC N Line and Amalgamated Transit Union Local 1001 jointly petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240 (Qualification and Certification of Locomotive Engineers) and part 242 (Qualification and Certification of Conductors). FRA assigned the petition Docket Number FRA–2023–0020.

Specifically, petitioners request relief as part of their proposed implementation of and participation in FRA's Confidential Close Call Reporting System (C^{3}RS) Program. Petitioners seek to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in §§ 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; 242.403(b), (c), (e)(l)–(4), (e)(6)–(11), (f)(l)–(2); and 242.407. The C^{3}RS Program encourages certified operating crew members to report close calls and protects the employees and the railroad from discipline or sanctions arising from the incidents reported per the C^{3}RS Implementing Memorandum of Understanding.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by May 30, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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 *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2023–06354 Filed 3–27–23; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2023–0017]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that on February 10, 2023, D & I Railroad Company (DAIR) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 240 (Qualification and Certification of Locomotive Engineers) and part 242 (Qualification and Certification of Conductors). FRA assigned the petition Docket Number FRA–2023–0017.

Specifically, DAIR requests relief as part of its proposed implementation of and participation in FRA's Confidential Close Call Reporting System (C^{3}RS) Program. DAIR seeks to shield reporting employees and the railroad from mandatory punitive sanctions that would otherwise arise as provided in §§ 240.117(e)(1)–(4); 240.305(a)(l)–(4) and (a)(6); 240.307; 242.403(b), (c), (e)(l)–(4), (e)(6)–(11), (f)(l)–(2); and 242.407. The C^{3}RS Program encourages certified operating crew members to report close calls and protects the employees and the railroad from discipline or sanctions arising from the incidents reported per the C^{3}RS Implementing Memorandum of Understanding.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov.*

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate

[1] The filing fee for OFAs can be found at 49 CFR 1002.2(f)(25).

scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted at *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Communications received by May 30, 2023 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. 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 *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.*

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2023–06355 Filed 3–27–23; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

FY 2023 Competitive Funding Opportunity: Public Transportation on Indian Reservations Program; Tribal Transit Program

AGENCY: Federal Transit Administration (FTA), Department of Transportation (DOT).

ACTION: Notice of Funding Opportunity (NOFO).

SUMMARY: The Federal Transit Administration (FTA) announces the opportunity to apply for $8,935,753 in competitive grants for the Fiscal Year (FY) 2023 Public Transportation on Indian Reservations (Tribal Transit) Program. As required by Federal public transportation law, funds will be awarded competitively for any purpose eligible under FTA's Formula Grants for Rural Areas Program, including planning, capital, and operating assistance for Tribal public transit services in rural areas. FTA may award additional funding that is made available to the program prior to the announcement of project selections.

DATES: Complete proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function by 11:59 p.m. Eastern time June 26, 2023. Any applicant intending to apply should initiate the process of registering on the *GRANTS.GOV* site immediately to ensure completion of registration before the submission deadline.

ADDRESSES: Instructions for applying can be found on FTA's website at *https://www.transit.dot.gov/howtoapply* and in the ''FIND'' module of *GRANTS.GOV*. The funding opportunity ID is FTA–2023–010–TPM–Tribal. Mail and fax submissions will not be accepted.

FOR FURTHER INFORMATION CONTACT: Elan Flippin, Office of Program Management, (202) 366–3800 or email *TribalTransit@dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS).

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A. Program Description

Federal public transportation law (49 U.S.C. 5311(c)(2)(A)) authorizes FTA to award competitive grants ''under such terms and conditions as may be established by the Secretary'' to Indian Tribes for any purpose eligible under FTA's Formula Grants for Rural Areas Program, 49 U.S.C. 5311, including planning, capital, and operating assistance. Tribes may apply for this funding directly.

The Tribal Transit Program (Federal Assistance Listing: 20.509) supports FTA's strategic goals and objectives through investments that (1) enhance safety, (2) renew our transit systems; (3) reduce greenhouse gas emissions in the public transportation sector, (4) improve equity, and (5) connect communities. This program also supports the President's Building a Better America initiative to mobilize American ingenuity to build a modern infrastructure and an equitable, clean energy future. Investments made in tribal communities through this program will also advance the Department of Transportation's Justice40 Initiative, created by Executive Order 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619). For purposes of Justice40, all Tribal areas are considered to be disadvantaged communities. In addition, FTA seeks to fund projects under the Tribal Transit Program that reduce greenhouse gas emissions in the transportation sector, incorporate evidence-based climate resilience measures and features, reduce the lifecycle greenhouse gas emissions from the project materials, and avoid adverse environmental impacts to air or water quality, wetlands, and endangered species, and address the disproportionate negative environmental impacts of transportation on disadvantaged communities, consistent with Executive Order 14008.

Furthermore, the Tribal Transit Program and this NOFO will advance the goals of Executive Order 13985 on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009).

Competitive funds distributed to Indian Tribes under the Tribal Transit Program do not replace or reduce funds that Indian Tribes receive from states through FTA's Formula Grants for Rural Areas Program (Section 5311 Program). Specific project eligibility under this competitive allocation is described in Section C of this notice.

B. Federal Award Information

Federal public transportation law (49 U.S.C. 5338(a)(2)(F) and (49 U.S.C. 5311(c)(1)(A), as amended by the Infrastructure Investment and Jobs Act (Pub. L. 117–58, the ''Bipartisan Infrastructure Law'' or ''BIL'')) authorizes, and the Consolidated Appropriations Act, 2023 (Pub. L. 117–328) appropriates $8,935,753 in FY 2023 for competitive grants under the Tribal Transit Program. Additional funds made available prior to project selection may be allocated to eligible projects.

FTA will set a $25,000 cap on planning grant awards, and FTA has discretion to cap capital and operating awards. There is no minimum or maximum grant award amount for operating and capital projects. Planning projects do not have a minimum grant award amount but will not receive an award of more than $25,000.

In FY 2022, the program received applications for 47 eligible projects requesting a total of $18,060,946.

Twenty-five projects were funded to 25 Tribes at a total of $8,635,124.

FTA will grant pre-award authority to incur costs for selected projects beginning on the date FY 2023 project selections are announced on FTA's website. Funds are available for obligation for two fiscal years after the fiscal year in which the competitive awards are announced. Funds are available only for projects that have not incurred costs prior to the announcement of project selections.

C. Eligibility Information

1. Eligible Applicants

Eligible applicants include federally recognized Indian Tribes or Alaska Native Villages, groups, or communities as identified by the U.S. Department of the Interior (DOI) Bureau of Indian Affairs (BIA). This list can be found at: *https://www.bia.gov/service/tribal-leaders-directory/federally-recognized-tribes.* To be an eligible recipient, an Indian Tribe must have the requisite legal, financial, and technical capabilities to receive and administer Federal funds under this program. Additionally, applicants must provide service in a rural area with a population of less than 50,000. A service area can include some portions of urban areas (as identified in the most recent decennial census), so long as rural areas are also served. For purposes of this funding opportunity, eligible service areas are rural areas as defined under the 2010 census.

2. Cost Sharing or Matching

There is no local match requirement for operating, capital, or planning projects under this program. All projects will be awarded at a 100 percent Federal share, unless the applicant chooses to provide a local match at its own discretion. If choosing to provide a local match, the proposal should include a description of the Indian Tribe's financial commitment.

If desired by the applicant, Tribes may use any local match eligible under Chapter 53 of Title 49, including cash from non-Government sources other than revenues from providing public transportation services; revenues derived from the sale of advertising and concessions; amounts received under a service agreement with a State or local social service agency or private social service organization; revenues generated from value capture financing mechanisms; funds from an undistributed cash surplus; replacement or depreciation cash fund or reserve; new capital; or in-kind contributions. Amounts appropriated or otherwise made available to a department or agency of the Government that are eligible to be expended for transportation, including amounts made available to carry out the Federal Lands Highway Program established by Section 204 of Title 23 are eligible sources of local match. Transportation development credits or in-kind match may be used for local match if identified and documented in the application. More information about eligible sources of local match can be found in FTA Circular 9040.1G, available on the FTA website.

3. Eligible Projects

Eligible projects include any purpose eligible under FTA's Formula Grants for Rural Areas Program, 49 U.S.C. 5311, including public transportation planning, capital, or operating expenses.

Public transportation includes regular, continuing shared-ride surface transportation services open to the public or open to a segment of the public defined by age, disability, or low income. Specific types of projects include: capital investment for start-ups, replacement, or expansion needs; operating assistance; and planning projects up to $25,000. Applications that include requests for more than one project type must identify the specific funds requested for each project type (planning, capital, or operating).

Indian Tribes applying for capital replacement or expansion needs must demonstrate a sustainable source of operating funds for existing or expanded services.

D. Application and Submission Information

1. Address To Request Application Package

Applications must be submitted electronically through *GRANTS.GOV.* General information for submitting applications through *GRANTS.GOV* can be found at *https://www.fta.dot.gov/howtoapply* along with specific instructions for the forms and attachments required for submission.

2. Content and Form of Application Submission

(i) Proposal Submission

Applications must be submitted electronically through *GRANTS.GOV.* Mail and fax submissions will not be accepted. A complete proposal submission consists of two forms and their supporting attachments: the SF–424 Application for Federal Assistance (available at *GRANTS.GOV*) and the supplemental form for the FY 2023 Tribal Transit Program (available for download at *GRANTS.GOV* or the FTA website at *https://www.transit.dot.gov/tribal-transit*). Failure to submit the information as requested can delay review or disqualify the application. The Tribal Transit supplemental form provides guidance and a consistent format for applicants to respond to the criteria outlined in this NOFO. The supplemental form and any supporting documents must be attached to the ''Attachments'' section of the SF–424. The application must include responses to all sections of the SF–424 Application for Federal Assistance and the supplemental form, unless indicated as optional. The information on the supplemental form will be used to determine applicant and project eligibility for the program and to evaluate the proposal against the selection criteria described in Section E of this notice.

FTA will only accept one supplemental form per SF–424 submission. Applicants may attach additional supporting information to the SF–424 submission, including but not limited to letters of support, project budgets, fleet status reports, or excerpts from relevant planning documents. Supporting documentation must be described and referenced by file name in the appropriate response section of the supplemental form, or it may not be reviewed.

Information such as applicant name, Federal amount requested, local match amount, if applicable, description of areas served, etc. may be requested in varying degrees of detail on both the SF–424 and Supplemental Form. Applicants must fill in all fields unless stated otherwise on the forms. Applicants should not place ''N/A'' or ''refer to attachment'' in lieu of typing in responses in the field sections. If information is copied into the supplemental form from another source, applicants should verify that pasted text is fully captured on the supplemental form and has not been truncated by the character limits built into the form. Applicants should use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms and ensure that the Federal and local amounts specified are consistent. Applicants should enter their information in the supplemental form (fillable PDF) that is made available on FTA's website or through the *GRANTS.GOV* application package and should attach this to the application in its original format. Applicants should not use scanned versions of the form, ''print'' the form to PDF, convert or create a version using another text

editor, etc. Complete instructions on the application process can be found at *https://www.transit.dot.gov/howtoapply.*

(ii) Application Content

The SF–424 Mandatory Form and the Supplemental Form will prompt applicants for the required information, including:

a. Name of Federally recognized Tribe and, if appropriate, the specific tribal agency submitting the application.

b. Unique Entity ID (UEI) assigned by *SAM.gov.*

c. *Contact information including:* Contact name, title, address, phone number, and email address.

d. Congressional district(s) where project will take place.

e. Description of public transportation services, including areas currently served by the Tribe, if any.

f. Name of person(s) authorized to apply on applicant's behalf (must accompany the proposal with a signed transmittal letter).

g. *Complete Project Description:* Indicate the category for which funding is requested (*i.e.,* project type: capital, operating, or planning), and then indicate the project purpose (*i.e.,* start-up, expansion, or replacement). Describe the proposed project and what it will accomplish (*e.g.,* number and type of vehicles, routes, service area, schedules, type of services, fixed route or demand responsive, safety aspects), route miles (if fixed route), ridership numbers expected (actual if an existing system, estimated if a new system), major origins and destinations, population served, and whether the Tribe provides the service directly or contracts for services, and note vehicle maintenance plans.

h. *Project Timeline:* Include significant milestones such as date of contract for purchase of vehicles, actual or expected delivery date of vehicles; facility project phases (*e.g.,* environmental reviews, design, construction); or dates for completion of planning studies. If applying for operating funding for new services, indicate the period of time that funds would be used to operate the system (*e.g.,* one year). This section should also include any needed timelines for Tribal council project approvals, if applicable.

i. *Budget:* Provide a detailed budget for each proposed purpose, noting the Federal amount requested and any additional funds that will be used. Project budgets should show how different funding sources will share in each activity and present those data in dollars and percentages. The budget should identify other Federal funds the applicant is applying for or has been awarded, if any, that the applicant intends to use. If applying for more than one project type (planning, capital, or operating), please specify the total amount of funds requested for each project type. An Indian Tribe may use up to fifteen percent of a grant award for capital projects for specific project-related planning and administration. The indirect cost rate may not exceed ten percent of the total amount awarded. Indian Tribes must also provide their annual operating budget as an attachment or under the ''Financial Commitment and Operating Capacity'' section of the supplemental form.

j. *Technical, Legal, Financial Capacity:* Applicants must be able to demonstrate adequate technical, legal, and financial capacity to be considered for funding. Every proposal must describe this capacity to implement the proposed project.

1. *Technical Capacity:* Provide examples of management of other Federal projects, including previously funded FTA projects or similar types of projects for which funding is being requested. Describe the resources available to implement the proposed transit project.

2. *Legal Capacity:* Provide documentation or other evidence to demonstrate status as a federally recognized Indian Tribe. Further, demonstrate evidence of an authorized representative with authority to bind the applicant and execute legal agreements with FTA. If applying for capital or operating funds, identify whether appropriate Federal or State operating authority exists.

3. *Financial Capacity:* Provide documentation or other evidence demonstrating current adequate financial systems to receive and manage a Federal grant. Fully describe: (1) all financial systems and controls; (2) other sources of funds currently managed; and (3) the long-term financial capacity to maintain the proposed or existing transit services.

k. Address all the applicable criteria and priority considerations identified in Section E.

3. Unique Entity Identifier and System for Award Management (SAM)

Each applicant is required to: (1) be registered in SAM before submitting an application; (2) provide a valid unique entity identifier in its application; and (3) continue to maintain an active SAM registration with current information at all times during which the applicant has an active Federal award or an application or plan under consideration by FTA. These requirements do not apply if the applicant is excepted from registration by FTA or the U.S. Office of Management and Budget under 2 CFR 25.110. FTA may not make an award until the applicant has complied with all applicable unique entity identifier and SAM requirements. If an applicant has not fully complied with the requirements by the time FTA is ready to make an award, FTA may determine that the applicant is not qualified to receive an award and use that determination as a basis for making a Federal award to another applicant.

All applicants must provide a unique entity identifier provided by SAM. SAM registration takes approximately 3–5 business days, but since there could be unexpected steps or delays (for example, if there is a need to obtain an Employer Identification Number), FTA recommends allowing ample time, up to several weeks, for completion of all steps. For additional information on obtaining a unique entity identifier, please visit *https://www.sam.gov.*

4. Submission Dates and Times

Project proposals must be submitted electronically through *GRANTS.GOV* by 11:59 p.m. Eastern time on June 26, 2023. Proposals submitted after the deadline will only be considered under extraordinary circumstances not under the applicant's control. Applications are time and date stamped by *GRANTS.GOV* upon successful submission. Mail and fax submissions will not be accepted.

Within 48 hours after submitting an electronic application, the applicant should receive an email message from *GRANTS.GOV* with confirmation of successful transmission to *GRANTS.GOV.* If a notice of failed validation or incomplete materials is received, the applicant must address the reason for the failed validation, as described in the email notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated and check the box on the supplemental form indicating this is a resubmission.

FTA urges applicants to submit their project proposals at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. FTA will not accept submissions after the stated submission deadline, except under extraordinary circumstances not under the applicant's control. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* website at *https://www.GRANTS.GOV.* The deadline will

not be extended due to scheduled maintenance or outages.

Applicants are encouraged to begin the process of registration on the *GRANTS.GOV* site well in advance of the submission deadline. Registration is a multi-step process that may take several weeks to complete before an application can be submitted. Registered applicants may still be required to take steps to keep their registration up to date before submissions can be made successfully. For example, (1) registration in the SAM is renewed annually, and (2) persons making submissions on behalf of the Authorized Organization Representative (AOR) must be authorized in *GRANTS.GOV* by the AOR to make submissions.

5. Funding Restrictions

Funds must be used only for the specific purposes requested in the application and described in the resulting award. Funds under this NOFO cannot be used to reimburse projects for otherwise eligible expenses incurred prior to an FTA award under this program or until FTA has issued pre-award authority for selected projects. FTA will issue pre-award authority to incur costs for selected projects beginning on the date that project selections are announced. FTA does not provide pre-award authority for competitive funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. FTA will issue specific guidance to selectees regarding pre-award authority at the time of selection. For more information about FTA's policy on pre-award authority, please see the most recent Apportionment Notice on FTA's website. Refer to Section C.3., Eligible Projects, for information on activities that are allowable in this grant program. Allowable direct and indirect expenses must be consistent with the Governmentwide Uniform Administrative Requirements and Cost Principles (2 CFR 200) and FTA Circular 5010.1E.

6. Other Submission Requirements

Applicants are encouraged to identify scaled funding options in case insufficient funding is available to fund a project at the full requested amount. If an applicant indicates that a project is scalable, the applicant must provide an appropriate minimum funding amount that will fund an eligible project that achieves the objectives of the program and meets all relevant program requirements. The applicant must provide a clear explanation of how the project budget would be affected by a reduced award. FTA may award a lesser amount regardless of whether a scalable option is provided.

All applications must be submitted via the *GRANTS.GOV* website. FTA does not accept applications on paper, by fax machine, email, or other means. For information on application submission requirements, please see Section D.1., Address to Request Application Package.

The Department may share application information within the Department or with other Federal agencies if the Department determines that sharing is relevant to the respective program's objectives.

E. Application Review Information

1. Criteria

A. Criteria for Capital and Operating Assistance Projects

Proposals for capital and operating assistance projects will be evaluated primarily on the responses provided in the supplemental form. Additional information may be provided to support the responses; however, any additional documentation must be directly referenced on the supplemental form, including the file name where the additional information can be found. Applications will be evaluated based on the quality and extent to which the following evaluation criteria are addressed. Applications will be evaluated based on the degree to which the applicant describes how the proposed project was developed; demonstrates that a sound basis for the project exists; and demonstrates that the applicant is ready to implement the project if funded.

(i). Planning and Local/Regional Prioritization

Information may vary depending upon how the planning process for the project was conducted and what is being requested. Planning and local/regional prioritization should:

a. Describe the planning document or the planning process conducted to identify the proposed project;

b. Provide a detailed project description, including the proposed service, vehicle and facility needs, and other pertinent characteristics of the proposed or existing service implementation;

c. Identify existing transportation services in and near the proposed service area, and document in detail whether the proposed project will provide opportunities to coordinate service with existing transit services, including human service agencies, intercity bus services, or other public transit providers;

d. Discuss the level of support by the community and Tribal government for the proposed project;

e. Describe how the mobility and client-access needs of Tribal human services agencies were considered in the planning process;

f. Describe what opportunities for public participation were provided in the planning process;

g. Describe how the proposed service complements rather than duplicates any currently available services;

h. If the Tribe is already providing transit service, describe if this project is included in the Tribe's transit asset management plan;

i. Describe the implementation schedule for the proposed project, including time period, staffing, and procurement; and

j. Describe any other planning or coordination efforts not mentioned above.

(ii). Project Readiness

Applications will be evaluated on the degree to which the applicant describes readiness to implement the project. The project readiness factor involves assessing whether:

a. The project qualifies for a categorical exclusion (see 23 CFR 771.118), or the required environmental work has been initiated or completed, for construction projects requiring an environmental assessment or environmental impact statement under, among other laws, the National Environmental Policy Act of 1969;

b. Project implementation plans are complete, including initial design of facilities projects;

c. Project funds can be obligated and the project can be implemented quickly if selected; and

d. The applicant demonstrates the ability to carry out the proposed project successfully.

(iii). Demonstration of Need

Applications will be evaluated based on the degree to which the applicant identifies the need for transit resources. In addition to project-specific criteria, FTA will consider the project's impact on service delivery and whether the project represents a one-time or periodic need that cannot reasonably be funded from FTA program formula allocations or State and local resources. FTA will evaluate how the proposal demonstrates the transit needs of the Indian Tribe as well as how the proposed transit improvements or the new service will address identified transit needs. Proposals should include information

such as destinations and services not currently accessible by transit; needs for access to jobs or health care; safety enhancements; special needs of elders or individuals with disabilities; behavioral health care needs of youth; income-based community needs; or other mobility needs. If an applicant received a planning grant in previous fiscal years, the proposal should indicate the status of the planning study and how the proposed project relates to that study.

If the proposal is for capital funding associated with an expansion or expanded service, the applicant should describe how current or growing demand for the service necessitates the expansion (and therefore, more capital) or the degree to which the project will address a current capacity constraint. Capital replacement projects should include information about the age, condition, and performance of the asset to be replaced by the proposed project or how the replacement is necessary to maintain the transit system in a state of good repair.

(iv). Demonstration of Benefits

Applications will be evaluated based on the degree to which the applicant identifies expected or, in the case of applications for operating assistance for existing service, achieved project benefits. FTA is particularly interested in how these investments will improve the quality of life for the Tribe and surrounding communities in which it is located. Applicants should describe how the transportation service or capital investment will provide greater access to employment opportunities, educational centers, healthcare, or other needs that impact the quality of life for the community and how it is expected to improve the environment. Possible examples include: increased or sustained ridership and daily trips; improved service; elimination of gaps in service; improved operations and coordination; increased reliability; and other applicable community benefits related to health care, education, the economy, or the environment. Benefits can be demonstrated by identifying the population of Tribal members and non-tribal members in the proposed project service area and estimating the number of daily one-way trips the proposed transit service will provide or the actual number of individual riders served. Applicants are encouraged to consider qualitative and quantitative benefits to the Indian Tribe and to the surrounding communities that are meaningful to them.

Using the information provided under this criterion, FTA will rate proposals based on the quality and extent to which they discuss the following four factors:

a. The project's ability to improve transit efficiency or increase ridership;

b. Whether the project will improve or maintain mobility or eliminate gaps in service for the Indian Tribe;

c. Whether the project will improve or maintain access to important destinations and services;

d. Any other qualitative benefits, such as greater access to jobs, education, and health care services, and environmental considerations.

(v). Financial Commitment and Technical, Legal, Financial and Operating Capacity

Provision of a local match for the FY 2023 Tribal Transit Competitive Program is not required. Applications that include a local match will not be evaluated more favorably than those that do not. However, FTA is interested in ensuring that projects that receive funding are sustainable.

Applications must identify the source of local match (if any is included) and any other funding sources used by the Indian Tribe to support proposed transit services, including human service transportation funding, the Federal Highway Administration's Tribal Transportation Program funding, or other FTA programs. If applicable, the applicant also should describe how prior year Tribal Transit Program funds were spent to date to support the service. Additionally, Indian Tribes applying to operate new services should provide a sustainable funding plan that demonstrates how it intends to maintain operations.

If applicable, FTA will consider any other resources the Indian Tribe will contribute to the project, including in-kind contributions, commitments of support from local businesses, donations of land or equipment, and human resources. The proposal should describe to what extent the new project or funding for existing service leverages other funding. Based upon the information provided, the proposals will be rated on the extent to which the proposal demonstrates that:

a. Tribal Transit Program funding does not replace existing funding;

b. The Indian Tribe will provide non-financial support to the project;

c. The Indian Tribe is able to demonstrate a sustainable funding plan; and

d. Project funds are used in coordination with other services for efficient utilization of funds.

B. Criteria for Planning Proposals

For planning grants, the proposal must describe the need for and a general scope of the proposed study. Applications will be evaluated based on the degree to which the applicant addresses the following:

a. The Tribe's long-term commitment to transit; and

b. The method used to implement the proposed study and/or further tribal transit.

2. Review and Selection Process

An FTA technical evaluation committee will review proposals under the project evaluation criteria. FTA may seek clarification about any statement in an application. After consideration of the findings of the technical evaluation committee, the FTA Administrator will determine the final selection and amount of funding for each project. Geographic diversity and the applicant's receipt and management of other Federal transit funds may be considered in FTA's award decisions.

After applying the above criteria, in support of the President's January 20, 2021 Executive Order 14008, Tackling the Climate Crisis at Home and Abroad, FTA will give priority consideration to applications that are expected to create significant community benefits relating to the environment, including those projects that incorporate low or no emission technology or specific elements to address greenhouse gas emissions and climate change impacts. FTA encourages applicants to demonstrate whether they have considered climate change and environmental justice in terms of the transportation planning process or anticipated design components with outcomes that address climate change (*e.g.,* resilience or adaptation measures). In particular, applicants may address how the project reduces greenhouse gas emissions in the transportation sector, incorporates evidence-based climate resilience measures and features, and reduces the lifecycle greenhouse gas emissions from the project materials. Applicants also may address the extent to which the project avoids adverse environmental impacts to air or water quality, wetlands, and endangered species, as well as address disproportionate negative impacts of climate change and pollution on disadvantaged communities, including natural disasters, with a focus on prevention, response, and recovery.

FTA intends to fund as many meritorious projects as possible. Only proposals from eligible recipients for eligible activities will be considered for

funding. Due to funding limitations, applicants that are selected for funding may receive less than the amount originally requested. In those cases, applicants must be able to demonstrate that the proposed projects are still viable and can be completed with the amount awarded.

3. Integrity and Performance Review

Prior to making an award with a total amount of Federal share greater than the simplified acquisition threshold (currently $250,000), FTA is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)). An applicant may review and comment on any information about itself that a Federal awarding agency previously entered into FAPIIS. FTA will consider any comments by the applicant, in addition to the other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in the Uniform Requirements for Federal Awards (2 CFR 200.206).

F. Federal Award Administration Information

1. Federal Award Notice

FTA will publish a list of the selected projects, including Federal dollar amounts and award recipients, on FTA's website. If selected, awardees will apply for a grant through FTA's Transit Award Management System (TrAMS). The appropriate FTA Regional Office and Tribal Liaison will manage project agreements. Project recipients should contact their FTA Regional Offices and Tribal Liaison for information about setting up grants in FTA's TrAMS.

2. Administrative and National Policy Requirements

a. Pre-Award Authority

FTA will issue specific guidance to recipients regarding pre-award authority at the time the project selections are announced. There is no blanket pre-award authority for these projects before announcement. FTA does not provide pre-award authority for competitive funds until projects are selected, and even then, there are Federal requirements that must be met before costs are incurred. For more information about FTA's policy on pre-award authority, please see the most recent Apportionment Notice at *https://www.transit.dot.gov/funding/apportionments/current-apportionments.*

b. Grant Requirements

Except as otherwise provided in this NOFO, Tribal Transit Program grants are subject to the requirements of 49 U.S.C. 5311(c)(1), as described in FTA Circular 9040.1G for the Formula Grants for Rural Areas Program, and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR part 200. All recipients must also follow the Award Management Requirements (FTA Circular 5010.1E). Recipients of capital assistance grants are required to either develop a Transit Asset Management Plan in compliance with 49 CFR part 625 or else to participate in a compliant group TAM Plan sponsored by a State DOT or other eligible entity (see *https://www.transit.dot.gov/TAM/Tribes* for more information). Technical assistance regarding these requirements is available from each FTA regional office.

c. Buy America and Domestic Preferences for Infrastructure Projects

As expressed in Executive Order 14005, 'Ensuring the Future Is Made in All of America by All of America's Workers' (86 FR 7475), the executive branch should maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. All capital procurements must comply with FTA's Buy America requirements (49 U.S.C. 5323(j)), which require that all iron, steel, and manufactured products be produced in the United States, and impose minimum domestic content and final assembly requirements for rolling stock. The cost of rolling stock components and subcomponents produced in the United States must be more than 70 percent of the cost of all components, and final assembly of rolling stock must occur in the United States. In addition, any award must comply with the Build America, Buy America Act (BABA) (Pub. L. 117–58, sections 70901–27). BABA provides that none of the funds provided under an award made pursuant to this notice may be used for a project unless all iron, steel, manufactured products, and construction materials are produced in the United States. FTA's Buy America requirements are consistent with BABA requirements for iron, steel, and manufactured products.

Any proposal that will require a waiver must identify the items for which a waiver will be sought in the application. Applicants should not proceed with the expectation that waivers will be granted.

d. Disadvantaged Business Enterprise

Recipients of planning, capital, or operating assistance that will award prime contracts (excluding transit vehicle purchases), the cumulative total of which exceeds $250,000 in FTA funds in a Federal fiscal year, must comply with the Disadvantaged Business Enterprise (DBE) program regulations (49 CFR part 26).

To be eligible to bid on any FTA-assisted transit vehicle procurement, entities that manufacture transit vehicles or perform post-production alterations or retrofitting must be certified Transit Vehicle Manufacturers (TVM). If a vehicle remanufacturer is responding to a solicitation for new or remanufactured vehicles with a vehicle to which the remanufacturer has provided post-production alterations or retrofitting (*e.g.,* replacing major components such as engine to provide a ''like new'' vehicle), the vehicle remanufacturer must be a certified TVM.

The TVM rule requires that, prior to bidding on any FTA-assisted vehicle procurement, manufacturers of transit vehicles submit a DBE Program plan and annual goal methodology to FTA. FTA then will issue a TVM concurrence and certification letter. Grant recipients must verify each manufacturer's TVM status before accepting its bid. A list of compliant, certified TVMs is posted on FTA's website at *https://www.transit.dot.gov/TVM.* Recipients should contact FTA before accepting a bid from a manufacturer not on this list. In lieu of using a certified TVM, a recipient may establish project-specific DBE goals for its vehicle procurement. FTA will provide additional guidance as grants are awarded. For more information on DBE requirements, please contact Monica McCallum, FTA Office of Civil Rights, 206–220–7519, *Monica.McCallum@dot.gov.*

e. Standard Assurances

The applicant assures that it will comply with all applicable Federal statutes, regulations, executive orders, directives, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The applicant acknowledges that it is under a continuing obligation to comply with the terms and conditions of the grant agreement issued for its project with FTA. The applicant understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and may

affect the implementation of the project. The applicant agrees that the most current Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The applicant must submit the Certifications and Assurances before receiving a grant if it does not have current certifications on file.

f. Autonomous Vehicles

If an applicant is proposing to deploy autonomous vehicles or other innovative motor vehicle technology, the application should demonstrate that all vehicles will comply with applicable safety requirements, including those administered by the National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA). Specifically, the application should show that vehicles acquired for the proposed project will comply with applicable Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carrier Safety Regulations (FMCSR). If the vehicles may not comply, the application should either (1) show that the vehicles and their proposed operations are within the scope of an exemption or waiver that has already been granted by NHTSA, FMCSA, or both agencies, or (2) directly address whether the project will require exemptions or waivers from the FMVSS, FMCSR, or any other regulation and, if the project will require exemptions or waivers, present a plan for obtaining them.

g. Federal Contract Compliance

As a condition of grant award and consistent with E.O. 11246, Equal Employment Opportunity (30 FR 12319, and as amended), all Federally assisted contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color. Under Section 503 of the Rehabilitation Act and its implementing regulations, affirmative action obligations for certain contractors include an aspirational employment goal of 7 percent workers with disabilities.

3. Reporting

Post-award reporting requirements include submission of the Federal Financial Report (FFR) and Milestone Progress Report (MPR) in TrAMS, and FTA's National Transit Database (NTD) reporting as appropriate (see FTA Circular 9040.1G). Reports to TrAMS and NTD are due annually. Applicants should include any goals, targets, and indicators referenced in their application to the project in the Executive Summary of the TrAMS application.

FTA is committed to making evidence-based decisions guided by the best available science and data. In accordance with the Foundations for Evidence-based Policymaking Act of 2018 (Evidence Act), FTA may use information submitted in discretionary funding applications; information in FTA's Transit Award Management System (TrAMS), including grant applications, Milestone Progress Reports (MPRs), Federal Financial Reports (FFRs); transit service, ridership and operational data submitted in FTA's National Transit Database; documentation and results of FTA oversight reviews, including triennial and state management reviews; and other publicly available sources of data to build evidence to support policy, budget, operational, regulatory, and management processes and decisions affecting FTA's grant programs.

As part of completing the annual certifications and assurances required of FTA grant recipients, a successful applicant must report on the suspension or debarment status of itself and its principals. If the award recipient's active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceed $10,000,000 for any period of time during the period of performance of an award made pursuant to this Notice, the recipient must comply with the Recipient Integrity and Performance Matters reporting requirements described in Appendix XII to 2 CFR part 200.

G. Federal Awarding Agency Contacts

For further information concerning this notice, please contact Elan Flippin, Office of Program Management, (202) 366–3800, or email: *TribalTransit@dot.gov.* A TDD is available at 1–800–877–8339 (TDD/FIRS).

H. Other Information

User-friendly information and resources regarding DOT's competitive grant programs relevant to rural applicants can be found on the Rural Opportunities to Use Transportation for Economic Success (ROUTES) website at *https://www.transportation.gov/rural.* Information about FTA programs that is specific to Tribes can be found on FTA's Tribal Governments landing page at *https://www.transit.dot.gov/funding/tribal-governments.*

This program is not subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.'' FTA will consider applications for funding only from eligible recipients for eligible projects listed in Section C of this Notice.

All information submitted as part of or in support of any application shall use publicly available data or data that can be made public and methodologies that are accepted by industry practice and standards, to the extent possible. If an applicant submits information the applicant considers to be a trade secret or confidential commercial or financial information, the applicant must provide that information in a separate document, which the applicant may reference from the application narrative or other portions of the application. For the separate document containing confidential information, the applicant must do the following: (1) state on the cover of that document that it ''Contains Confidential Business Information (CBI)''; (2) mark each page that contains confidential information with ''CBI''; (3) highlight or otherwise denote the confidential content on each page; and (4) at the end of the document, explain how disclosure of the confidential information would cause substantial competitive harm. FTA will protect confidential information complying with these requirements to the extent required under applicable law. If FTA receives a Freedom of Information Act (FOIA) request for the information that the applicant has marked in accordance with this section, FTA will follow the procedures described in DOT's FOIA regulations at 49 CFR part 7. Only information that is in the separate document, marked in accordance with this section, and ultimately determined to be confidential under § 7.29 will be exempt from disclosure under FOIA.

To assist Tribes with understanding requirements under the Tribal Transit Program, FTA has conducted Tribal Transit Technical Assistance Workshops. FTA has expanded its technical assistance to Tribes receiving funds under this program. Through the Tribal Transit Technical Assistance Assessments Initiative, FTA collaborates with Tribal Transit recipients to review processes and identify areas in need of improvement and then assists to offer solutions to address these needs—all in a supportive and mutually beneficial manner that results in technical assistance. These assessments include discussions of compliance areas pursuant to the Master Agreement, a site visit, promising practices reviews, and technical assistance from FTA and its contractors. These workshops and

assessments have received excellent feedback from Tribal Transit grantees and provided FTA with invaluable opportunities to learn more about Tribe's perspectives and better honor the sovereignty of Tribal Nations.

FTA will post information about upcoming workshops to its website and will disseminate information about the assessments through its regional offices. Contact information for FTA's regional offices can be found on FTA's website at *https://www.transit.dot.gov/about/regional-offices/regional-offices.*

Applicants may also receive technical assistance by contacting their FTA regional Tribal Liaison. A list of Tribal Liaisons is available on FTA's website at *https://www.transit.dot.gov/funding/grants/federal-transit-administrations-regional-tribal-liaisons.*

Additionally, FTA plans to expand its technical assistance efforts and collaboration opportunities with Tribes through formal consultation to take place this year.

If awarded, grant funding made available through this program may be included in a Tribal Transportation Self-Governance funding agreement if there is an existing Self-Governance compact in place between the Tribe and the U.S. Department of Transportation. If funds are administered under a Tribal Self-Governance funding agreement, the funds will be subject to the requirements and provisions of the Tribal Transportation Self-Governance Program regulation at 49 CFR part 29 and may be used only for the purpose for which they were awarded.

Nuria I. Fernandez,

Administrator.

[FR Doc. 2023–06378 Filed 3–27–23; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT–OST–2023–0045]

Increasing Public Access to the Results of USDOT-Funded Transportation Research

Issue Date: March 23, 2023.

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice; request for information.

SUMMARY: The United States Department of Transportation (DOT) invites public comment on issues or topics the DOT should consider as it updates the DOT Public Access Plan in response to new White House Office of Science and Technology Policy (OSTP) guidance.

DATES: Comments are requested by May 10, 2023. See the **SUPPLEMENTARY INFORMATION** section on ''Public Participation,'' below, for more information about written comments.

ADDRESSES: Written Comments: Comments should refer to the docket number above and be submitted by one of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Email: public.access@dot.gov* Include the docket number in the subject line of the message.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001. Include docket number on the outside of the envelope.
- *Hand Delivery:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal Holidays. Include docket number on outside or first page of your submission.

Instructions: All submission received must include the agency name and the docket number. All comments received in the Federal Rulemaking Portal will be posted without change, including any personal information provided.

For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Privacy Act: Except as provided below, all comments received into the docket will be made public in their entirety. The comments will be searchable by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You should not include information in your comment that you do not want to be made public. You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or at *https://www.transportation.gov/privacy.*

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* or to the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Mx. Leighton L Christiansen, Data Curator, National Transportation Library, Bureau of Transportation Statistics, Office of the Assistant Secretary for Research and Technology, by email at *public.access@dot.gov* or by phone at (202) 578–0185.

SUPPLEMENTARY INFORMATION:

Purpose

DOT seeks public input on the Increasing Public Access to the Results of USDOT Funded Transportation Research (DOT Public Access Plan).

Background

On February 22, 2013, the White House Office of Science and Technology Policy (OSTP) released a memorandum entitled ''Increasing Access to the Results of Federally Funded Scientific Research'' <<*https://obamawhitehouse.archives.gov/sites/default/files/microsites/ostp/ostp_public_access_memo_2013.pdf*>>, which called for all Executive Departments with greater than $100 million in yearly research and development expenditures to prepare a plan for improving the Public's access to the results of Federally funded research. On December 16, 2015, the DOT published its ''Plan to Increase Public Access to the Results of Federally-Funded Scientific Research, Version 1.1'' << *https://doi.org/10.21949/1503646*>> in response. The 2015 Public Access Plan codified and extended DOT's longstanding commitment to and practice of sharing DOT-supported research results. Further, the 2015 plan included making the digital datasets underlying the research results accessible by the public.

On August 25, 2022, the White House Office of Science and Technology Policy (OSTP) released a memorandum entitled ''Ensuring Free, Immediate, and Equitable Access to Federally Funded Research'' <<*https://www.whitehouse.gov/wp-content/uploads/2022/08/08-2022-OSTP-Public-Access-Memo.pdf*>> which establishes new guidance for improving public access to scholarly publications and data resulting from Federally supported research. This second OSTP memorandum calls on all Federal Departments and Agencies to prepare new or updated Public Access plans to ensure the Public's immediate access to the results of Federally funded research, which will further advance research transparency and advance U.S. economic competitiveness by raising awareness of new research discoveries and innovations.

In response, DOT will draft a version 2 of its Public Access Plan. The updated plan will:

- Affirm and enhances DOT's commitment to the Public's access to DOT-funded Scientific Research results, including digitally formatted scientific data;
- Affirm DOT's support for the reproducibility of Scientific Research results;
- Build on DOT's commitment to the Public's access to DOT-funded Scientific Research results by adding Source Code and Software, among the categories of accessible Research Outputs;
- Ensure the free and immediate availability, reliable preservation, and continuous access to DOT-funded research results, without embargo; and
- Enhance the usefulness of Scientific Research results to promote further innovation, increase American economic competitiveness, and advance the safety, reliability, sustainability, and equity of the national transportation system.

Specific Questions

DOT seeks information regarding the DOT Public Access Plan from all interested stakeholders, including, but not limited to: members of the public; principal investigators; research institutions; libraries; scholarly publishers; scientific societies; transportation agencies; transportation-focused groups, organizations, and associations; data scientists; data repositories; and others.

DOT is providing the following questions to prompt feedback and comments. DOT encourages public comment on any or all of these questions, and also seeks any other information commenters believe is relevant.

The questions to which DOT is interested in receiving responses are:

1. How best to improve access to textual research outputs. A high percentage of DOT funded research results are delivered via technical reports, research briefs, manuals, technology transfer documents, and other grey literature, designed for immediate sharing and rapid implementation. The current DOT Public Access Plans allows researchers to distribute these outputs through the website or repository of their choice, and requires a copy be submitted to the DOT National Transportation Library digital repository for long-term preservation and public access. DOT seeks information on how to improve and streamline this submission process to improve timeliness; and, to avoid reinforcing inequities to access and submission, while not creating new ones.

2. How best to improve accessibility of textual research outputs. DOT research grants and contracts require researchers to submit textual research outputs that are accessible to members of the public who use computer screen readers and other assistive technologies to access information, as consistent with Section 508 of the Rehabilitation Act of 1973 and the 2018 ITC Refresh, 36 CFR 1194. DOT seeks information on how to improve equity of access to research results.

3. How best to improve access to scholarly publications from DOT funded research. Section 3.a) of the 2022 OSTP memo calls on agencies to ''update or develop new public access plans for ensuring, as appropriate and consistent with applicable law, that all peer-reviewed scholarly publications authored or co-authored by individuals or institutions resulting from federally funded research are made freely available and publicly accessible by default in agency-designated repositories without any embargo or delay after publication.'' DOT seeks information on: i. How peer-reviewed scholarly publications should be made publicly accessible; ii. How to maximize equitable reach of public access to peer-reviewed scholarly publications, including by providing free online access to peer-reviewed scholarly publications in formats that allow for machine-readability and enabling broad accessibility through assistive devices; and, iii. The circumstances or prerequisites needed to make the publications freely and publicly available by default, including any use and re-use rights, and which restrictions, including attribution, may apply.

4. How best to improve access to datasets. The 2015 DOT Public Access Plan required all data underlying research conclusions be made publicly accessible, while protecting sensitive personal, business, and security information. Further, the Plan required research proposals include a data management plan (DMP) that, among other things, detailed where datasets would be preserved. However, DOT allowed researchers a choice of where to preserve the data: in an institutional or third-party domain-specific or generalist repository; with DOT; or, to self-distribute data when requested by the public. Further the 2015 DOT plan allowed researchers to include reasonable preservation costs in their research proposal. Going forward, the updated plan will continue to mandate research data must be shared while protecting sensitive information. However, in order meet the requirements of the 2022 OSTP memo and to better ensure long-term preservation of data of interest to DOT, the broader research community, and the public, researchers must preserve data in an institutional or third-party repository or with DOT, but self-distribution will no longer be allowed. DOT will continue to encourage researchers to plan for, and budget for, long-term data preservation as part of the research proposal process. DOT seeks information on how to best facilitate, support, and fund long-term data preservation and sharing.

5. How to implement evolving ethical frameworks to DOT-funded research. A percentage of transportation research involves the direct study of human subjects as they interact with the transportation infrastructure and operations. Transportation researchers have a long history of protecting human subjects under academic Institutional Review Board (IRB) and similar ethical guidelines. With the increase in volume of digital data collected about people and populations during research execution, some collectively in identified public settings and some oriented to observation of individuals requiring their knowledge and consent, the global movement towards open science and data sharing has developed new ethical frameworks. One example of these is the ''CARE Principles for Indigenous Data Governance'' << *https://www.gida-global.org/care*>>, created to allow Indigenous People to assert greater control over the use of Indigenous data and knowledge. DOT seeks information on how to ensure DOT supported research is engaged with and implements these evolving ethical frameworks.

6. How to best improve access to other types of research outputs. The 2015 DOT Public Access Plan focused on making text-based research outputs and digital datasets accessible to the public. But transportation research is not confined to only these two types of outputs. More and more research outputs include software, code, simulations, visualizations, and others yet to come. With the need to update our Public Access Plan, DOT is interested in having supported researchers share all research outputs with the public, where practicable and within legal parameters. DOT seeks information on the projected types of research outputs, the level of effort and expense in sharing them, as well as ethical and legal concerns with sharing other types of research outputs.

7. How to implement persistent identifiers (PIDs) for people; research documents and outputs; and, research

entities. The 2015 DOT Public Access Plan called for persistent identification of research outputs and researchers. The 2022 OSTP memo, section 4.b) requires all federally funded researchers to have a personal persistent identifier as defined in NSPM–33 Implementation Guidance << *https://www.whitehouse.gov/wp-content/uploads/2022/01/010422-NSPM-33-Implementation-Guidance.pdf*>> section 2. Further, the OSTP memo section 4.c) requires persistent identification of research and development awards, such as research grants and contracts. Finally, DOT is interested in being able to uniquely and persistently identify research entities, to enable analysis of outputs and research relationships. DOT seeks suggestions on improving the use of persistent identifiers and their metadata, including adoption use cases from institutions.

8. How to improve research project lifecycle management. The 2015 DOT Public Access Plan commits DOT to sharing research project information through a publicly accessible database. DOT seeks suggestions on improving our research project management tools and practices, and welcomes institutional use case examples.

Public Participation

How do I prepare and submit comments?

Your comments must be written in English. To ensure that your comments are filed correctly in the docket, please include the docket number of this document in your comments.

Please submit one copy (two copies if submitting by mail or hand delivery) of your comments, including the attachments, to the docket following the instructions given above under **ADDRESSES**. Please note, if you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using an Optical Character Recognition (OCR) process, and without password protection, thus allowing the agency to open, search, and copy certain portions of your submissions.

How do I submit confidential business information?

Any submissions containing Confidential Information must be delivered to OST in the following manner:

- Submitted in a sealed envelope marked ''confidential treatment requested'';
- Document(s) or information that the submitter would like withheld should be marked ''PROPIN''; accompanied by an index listing the document(s) or information that the submitter would like the Departments to withhold. The index should include information such as numbers used to identify the relevant document(s) or information, document title and description, and relevant page numbers and/or section numbers within a document; and
- Submitted with a statement explaining the submitter's grounds for objecting to disclosure of the information to the public.

DOT will treat such marked submissions as confidential under the FOIA and will not include them in the public docket. DOT also requests that submitters of Confidential Information include a non-confidential version (either redacted or summarized) of those confidential submissions in the public docket. In the event that the submitter cannot provide a non-confidential version of its submission, DOT requests that the submitter post a notice in the docket stating that it has provided DOT with Confidential Information. Should a submitter fail to docket either a non-confidential version of its submission or to post a notice that Confidential Information has been provided, we will note the receipt of the submission on the docket, with the submitter's organization or name (to the degree permitted by law) and the date of submission.

Will the Agency consider late comments?

OST will consider all comments received before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, the agency will also consider comments received after that date.

How can I read the comments submitted by other people?

You may read the comments received at the address given above under written comments. The hours of the docket are indicated above in the same location. You may also see the comments on the internet, identified by the docket number at the heading of this notice, at *http://www.regulations.gov.*

Issued in Washington, DC, on March 23, 2023, under authority delegated at 49 CFR 1.25a.

Robert C. Hampshire,

Deputy Assistant Secretary for Research and Technology.

[FR Doc. 2023–06373 Filed 3–27–23; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Bureau of the Fiscal Service Information Collection Request

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the CMIA Annual Report and Direct Cost Claims.

DATES: Comments should be received on or before April 27, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Melody Braswell by emailing *PRA@treasury.gov,* calling (202) 622–1035, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Bureau of the Fiscal Service (BFS)

Title: CMIA Annual Report and Direct Cost Claims.

OMB Number: 1530–0066.

Form Number: None.

Abstract: States and Territories must report interest owed to and from the Federal government for major Federal assistance programs on an annual basis. The data is used by Treasury and other Federal agencies to verify State and Federal interest claims, to assess State and Federal cash management practices and to exchange amounts of interest owed.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 56.

Estimated Time per Respondent: Average 393.5 hours per state.

Estimated Total Annual Burden Hours: 22,036.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2023–06389 Filed 3–27–23; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Departmental Offices Information Collection Request

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on revisions of an information collection that are proposed for approval by the Office of Management and Budget. The Office of International Affairs within the Department of the Treasury is soliciting comments concerning the revisions of the Treasury International Capital (TIC) Forms BC, BL–1, BL–2, BQ–1, BQ–2, and BQ–3 (called the ''TIC B forms'').

DATES: Comments should be received on or before April 27, 2023 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Dwight Wolkow, International Portfolio Investment Data Systems, Department of the Treasury, 202–622–1276. Copies of the proposed TIC B Forms and instructions are available on the Treasury's TIC Forms web page, *https://home.treasury.gov/data/treasury-international-capital-tic-system-home-page/tic-forms-instructions.* Requests for additional information should be directed to Mr. Wolkow.

SUPPLEMENTARY INFORMATION:

Departmental Offices (DO)

Titles: Treasury International Capital (TIC) Form BC ''Monthly Report of U.S. Dollar Claims of Financial Institutions on Foreign Residents;'' TIC BL–1 ''Monthly Report of U.S. Dollar Liabilities of Financial Institutions to Foreign Residents;'' TIC BL–2 ''Monthly Report of Customers' U.S. Dollar Liabilities to Foreign Residents;'' TIC BQ–1 ''Quarterly Report of Customers' U.S. Dollar Claims on Foreign Residents;'' TIC BQ–2 ''Part 1: Quarterly Report of Foreign Currency Liabilities and Claims of Financial Institutions and of their Domestic Customers' Foreign Currency Claims with Foreign Residents'' and ''Part 2: the Report of Customers' Foreign Currency Liabilities to Foreign Residents;'' and TIC BQ–3 ''Quarterly Report of Maturities of Selected Liabilities and Claims of Financial Institutions with Foreign Residents.''

OMB Number: 1505–0016.

Abstract: Forms BC, BL–1, BL–2, BQ–1, BQ–2, BQ–3 are part of the Treasury International Capital (TIC) reporting system, which is required by law (22 U.S.C. 286f; 22 U.S.C. 3103; E.O. 10033; 31 CFR 128) and are designed to collect timely information on international portfolio capital movements. These forms are filed by U.S.-resident financial institutions that are not exempt. On the monthly forms, these organizations report their own claims on (BC), their own liabilities to (BL–1), and their U.S. customers' liabilities to (BL–2) foreign residents, denominated in U.S. dollars. On the quarterly forms, these organizations report their U.S.-resident customers' U.S. dollar claims on foreign residents (BQ–1), and their own and their domestic customers' claims and liabilities with foreign residents, where all claims and liabilities are denominated in foreign currencies (BQ–2). On the quarterly BQ–3 form, these organizations report the remaining maturities of all their own U.S. dollar and foreign currency liabilities and claims (excluding securities) with foreign residents. This information is necessary for compiling the U.S. balance of payments accounts and the U.S. international investment position, and for use in formulating U.S. international financial and monetary policies.

Current Actions: One change is proposed to page 18 of the Instructions for the Treasury International Capital (TIC) Form B Reports. In section I.D.1. ''General Instructions—Accounting Issues—General'', add the following sentence as the new first sentence of the existing first paragraph: ''These reports should be prepared in accordance with generally accepted accounting principles (GAAP) and these instructions.'' This additional text clarifies that balances are expected to be reported according to GAAP. Similar text is found in the FFIEC 009 instructions.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Forms: BC, BL–1, BL–2, BQ–1, BQ–2, and BQ–3.

Estimated Number of Respondents: BC, 320; BL–1, 360; BL–2, 110; BQ–1, 85; BQ–2, 190 and BQ–3, 155.

Estimated Average Time per Respondent per Filing: BC, 11.2 hours; BL–1, 7.7 hours; BL–2, 8.9 hours; BQ–1, 3.8 hours; BQ–2, 7.8 hours; and BQ–3, 10.5 hours. The average time varies and is estimated to be generally twice as many hours for major data reporters as for other reporters.

Estimated Total Annual Burden Hours: BC, 43,170 hours for 12 reports per year; BL–1, 33,440 hours for 12 reports per year; BL–2, 11,760 hours for 12 reports per year; BQ–1, 1,290 hours for 4 reports per year, BQ–2, 5,960 hours for 4 reports per year; and BQ–3, 6,510 hours for 4 reports per year.

Authority: 44 U.S.C. 3501 *et seq.*

Melody Braswell,

Treasury PRA Clearance Officer.

[FR Doc. 2023–06391 Filed 3–27–23; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Comments in Aid of Analyses of the Terrorism Risk Insurance Program

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Request for comments.

SUMMARY: The Terrorism Risk Insurance Act of 2002 (TRIA) created the Terrorism Risk Insurance Program (Program) to address disruptions in the market for terrorism risk insurance, to help ensure the continued availability and affordability of commercial property and casualty insurance for terrorism risk, and to allow for the private markets to stabilize and build insurance capacity to absorb any future losses for terrorism events. The Secretary of the Treasury (Secretary) administers the Program, with the assistance of the Federal Insurance Office (FIO). Treasury requests comments from interested parties regarding some of the issues that FIO will be analyzing in connection with its next report related to the participation of small insurers in the Program, including any competitive challenges such insurers face in the terrorism risk insurance marketplace.

DATES: Submit comments on or before May 12, 2023.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal: *https://www.regulations.gov,* or by mail to the Federal Insurance Office, Attn: Richard Ifft, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because postal mail may be subject to processing delays, it is recommended that comments be submitted electronically. If submitting comments by mail, please submit an original version with two copies. Comments should be captioned with ''2023 TRIA Small Insurer Study Comments.'' Please include your name, group affiliation, address, email address, and telephone number(s) in your comment. Where appropriate, a comment should include a short Executive Summary (no more than five single-spaced pages).

FOR FURTHER INFORMATION CONTACT: Richard Ifft, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, Room 1410 MT, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220, at (202) 622–2922 (not a toll-free number), Sherry Rowlett, Program Analyst, Federal Insurance Office, at (202) 622–1890 (not a toll free number), or Annette Burris, Senior Insurance Regulatory Policy Analyst, Federal Insurance Office, at (202) 622–2541 (not a toll free number). Persons who have difficulty hearing or speaking may access these numbers via TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 104(h) of TRIA [1] directs the Secretary, beginning in calendar year 2016, to ''require insurers participating in the Program to submit to the Secretary such information regarding insurance coverage for terrorism losses of such insurers as the Secretary considers appropriate to analyze the effectiveness of the Program[.]'' This information and data includes information regarding: (1) lines of insurance with exposure to such losses; (2) premiums earned on such coverage; (3) geographical location of exposures; (4) pricing of such coverage; (5) the take-up rate for such coverage; (6) the amount of private reinsurance for acts of terrorism purchased; and (7) such other matters as the Secretary considers appropriate.

In addition, Section 108(h) of TRIA requires the Secretary to conduct, by June 30, 2017 and every other year thereafter, a study of small insurers (to be defined by the Secretary, as has been done under 31 CFR 50.4(z)) participating in the Program to identify any competitive challenges that small insurers face in the terrorism risk insurance marketplace. Section 108(h) also identifies specific matters that Treasury is to analyze in the small insurers study. In addition to the data that Treasury has previously collected and will be collecting in the future, Treasury seeks comments from the public for use in the study that Treasury must conduct concerning the participation of small insurers in the Program.

II. Solicitation for Comments on Small Insurer Participation in the Program

As discussed above, Treasury will be collecting certain data from small insurers as part of its 2023 TRIP Data Call,[2] which Treasury will use (along with data collected by Treasury during prior TRIP Data Calls) in connection with the study. Treasury welcomes comments concerning small insurer participation in the Program generally, and invites responses to the following particular issues specified in Section 108(h) of TRIA:

(1) Changes to the market share, premium volume, and policyholder surplus of small insurers relative to large insurers.

(2) How the property and casualty insurance market for terrorism risk differs between small and large insurers, and whether such a difference exists within other perils.

(3) The impact of the Program's mandatory availability requirement under Section 103(c) of TRIA on small insurers.

(4) The effect of increasing the trigger amount for the Program under Section 103(e)(1)(B) of TRIA for small insurers.

(5) The availability and cost of private reinsurance for small insurers.

(6) The impact that state workers' compensation laws have on small insurers and workers' compensation carriers in the terrorism risk insurance marketplace.

In addition, Treasury welcomes qualitative and quantitative comments on the following additional topics that may be relevant to the competitiveness of small insurers in the terrorism risk insurance marketplace.

(1) Any potential constraints or market effects on the ability of small insurers to provide coverage for nuclear, chemical, biological, and radiological (NBCR) risks.

(2) Any risk management strategies and challenges faced by small insurers in maintaining the ability to pay losses associated with insured claims that are not subject to claims for the federal share of compensation (*e.g.,* losses below the Program Trigger, within the insurer deductible, and within the insurer co-pay share).

(3) The effects, if any, on small insurer participation in the terrorism risk insurance marketplace of the 2019 reauthorization of the Program until December 31, 2027, under the sharing mechanisms in place as of Calendar Year 2020.[3]

(4) The role of small insurers in covering cyber-related acts of terrorism under the Program, including any relevant developments in the cyber insurance market.

(5) The role of small insurers in covering terrorism risk under the Program for Places of Worship.[4]

(6) The use of risk modeling techniques and other analytical tools by small insurers to assess their risk exposure to losses within the scope of the Program.

Treasury issued its first three studies of small insurers under TRIA in June 2017,[5] June 2019,[6] and June 2021.[7] In those studies, Treasury addressed the statutory issues identified above, with reference to data collected by Treasury in the TRIP Data Calls, as well as other available sources. Treasury requests further comment on these issues from

[1] Public Law 107–297, 116 Stat. 2322, codified at 15 U.S.C. 6701, note. As the provisions of TRIA (as amended) appear in a note, instead of particular sections, of the United States Code, the provisions of TRIA are identified by the sections of the law.

[2] The 2023 TRIP Data Call has commenced. *See* Terrorism Risk Insurance Program Annual Data Collection, *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program/annual-data-collection.*

[3] See Terrorism Risk Insurance Program Reauthorization Act of 2019, Public Law 116–94, 133 Stat. 2534.

[4] As defined in Treasury's TRIP Data Calls. *See, e.g.,* Instructions for Terrorism Risk Insurance Program (TRIP) 2023 Data Call Small Insurers at 22, located at *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/federal-insurance-office/terrorism-risk-insurance-program/annual-data-collection.*

[5] U.S. Treasury, Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace (June 2017), *https://home.treasury.gov/system/files/311/Study_of_Small_Insurer_Competitiveness_in_the_Terrorism_Risk_Insurance_Marketplace_%28June_2017%29.pdf.*

[6] U.S. Treasury, Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace (June 2019), *https://home.treasury.gov/system/files/311/2019_TRIP_SmallInsurer_Report.pdf.*

[7] U.S. Treasury, Study of Small Insurer Competitiveness in the Terrorism Risk Insurance Marketplace (June 2021), *https://home.treasury.gov/system/files/311/2021TRIPSmallInsurerReportJune2021.pdf.*

interested parties, particularly with respect to any issue that an interested party believes may not be fully evident solely by reference to the aggregated data collected by Treasury.

Steven E. Seitz,

Director, Federal Insurance Office.

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